FAX : 0532-2400149

REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

To

Dated: 28/11/2017

Appellant as per address in table below
Respondent as per address in table below

Final Order No. A/71664/2017-SM[BR] dated 21/11/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the **Central Excise and Salt Act, 1944.**

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/70342/2017	**Shri Jai Balaji Steel Rolling Mills Ltd** Muzaffarnagar MUZAFFARNAGAR UP
		Name and Address of Respondent
2		C.C.E. & S.T.-Meerut-i EXCISE CHOWK...UNIVERSITY ROAD,MANGAL PANDEY NAGAR, MEERUT, UTTAR PRADESH-250005

Copy To
3 Advocate(s) / Consultant(s):

Rajesh chibber
FA-9, KAVI NAGAR,
GHAZIABAD,
UP

4 Bar Association, CESTAT, Allahabad

5 Director Publications, Customs, Excise. I.P. Estate, Delhi

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

12 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

13 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

14 C.D.R. 15 Office Copy 16 Second Folder Copy 17 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. E/70342/2017-EX[SM]

(Arising out of Order-in-Appeal No. MRT/EXCUS/000/APPL-I/332/2016-17 dated 14/02/2017 passed by Commissioner of Central Excise (Appeals-I), Meerut)

M/s Shri Jai Balaji Steel Rolling Mills Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Meerut **Respondent**

Appearance:

Shri Rajesh Chhibber, Advocate, for Appellant
Shri Gyanendra Kumar Tripathi, Assistant Commissioner (AR), for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Date of Hearing & Date of Decision : 21/11/2017

FINAL ORDER NO. 71664/2017

Per: Archana Wadhwa

The findings of clandestine removal are based upon the shortages detected by the Officers during the visit of appellant's factory. Apart from the fact that the assessee has challenged the methodology adopted for weighment, it stands submitted before me that shortages by itself cannot lead to the inevitable conclusion of clandestine manufacture and removal, without any corroborative evidence to that effect. The Lower Authorities have not been referred to any other evidence on record.

2. I find that the issue is no more *res-integra* and stands settled by various decisions of the Tribunal. A reference can be made to Hon'ble Allahabad High Court decision in the case of Commissioner of Central Excise, Kanpur *Versus* Minakshi Castings reported at 2011 (274) E.L.T. 180 (Allahabad).

3. In as much as, the findings of clandestine removal are solely based on the shortages detected by the Officers, I find no reason to uphold the impugned order. The same is accordingly set aside and the appeal is allowed.

(Dictated & Pronounced in Court)

Sd/-
(Archana Wadhawa)
Member(Judicial)

Ansari

प्रमाणित प्रति/Certified True Copy
01/01/18
सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण/C.E.S.T.A.T.
38, एम.जी.मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001