

FAX : 0532-2400149

REGISTERED / AD

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

Dated: 12/09/2017

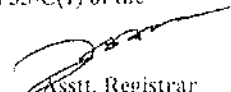
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70949/2017-SM[BR] dated 06/09/2017

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	Appel	Name and Address of Appellant
1	E/70447/2016	Regent Lighting Asia Pvt Ltd A-40, Sector-80, Phase-ii NOIDA U.P.
		Name and Address of Respondent
2		C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307

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Copy To

3 Bar Association, CESTAT, Allahabad

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

5 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

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

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

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

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

10 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 38

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

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

13 C.D.R. 14 Office Copy 15 ~~Guard File~~


Asstt. Registrar

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
Old Red Building, 38 M.G. Marg, Civil Lines,
Allahabad – 211 001**

COURT NO. II

DATE OF HEARING : 06/09/2017.

DATE OF DECISION : 06/09/2017.

Excise Appeal No. 70447 of 2016 (SM)

[Arising out of the Order-in-Appeal No. NOI/EXCUS/001/APP/0282/15-16 dated 02/02/2016 passed by The Commissioner (Appeals), Meerut – II, Central Excise & Customs, Noida.]

M/s Regent Lighting Asia Pvt. Ltd.

Appellant

Versus

CCE & ST, Noida

Respondent

Appearance

None – for the Appellant.

Shri Mohd. Altaf, Authorized Representative (DR) – for the Respondent.

CORAM: Hon'ble Shri Ashok Jindal, Member (Judicial)

Final Order No. 70949/2017 Dated : 06/09/2017



Per. Ashok Jindal :-

The Cenvat credit on service tax paid has been denied to the appellant under Rule 9 (2) of the Cenvat Credit Rules, 2004 on the premise that the service provider has not paid the service tax to the Department.

2. Heard the learned AR and perused the record.

Ashok Jindal

3. On perusal of the record, I find that notice issued to the appellant has returned back with remark left. Therefore, appeal is taken up on consideration on its own merits.

4. I find that in this case, Cenvat credit sought to be denied on the premise that the service provider has not paid the service tax to the Government. It is not coming out from the fact that whether Revenue has taken any action against the service provider or not? If service provider has not paid the service tax, in that circumstances, the cause of action arises against the service provider not against the appellant herein. As appellant has availed Cenvat credit on the strength of invoice issued by the service provider showing payment of service tax, in that circumstances, as per Rule 3 of Cenvat Credit Rules, 2004, the appellant is entitled to avail Cenvat credit. Therefore, I hold that appellant has correctly availed the Cenvat credit. Accordingly, there is no merit with the impugned order, the same is set aside.

5. In result, appeal is allowed with consequential relief, if any.

(Dictated and pronounced in open court.)

Sd/-

(Ashok Jindal)

PK

Member(Judicial)

प्रमाणित प्रतिलिपि/Certified True Copy

24/09/17
सहायक पंजीकार/Asstt. Registrar
सीमा शुल्क, उत्तराखण्ड एवं मेघालय
अर्थ. अधिकरण (L. & T.)
कोर्ट के कार्यालय, गुवाहाटी-781001

