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: 22/11/2017

To

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

Final Order No. A/71530/2017-SM[BR] dated 20/11/2017

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/70532/2017	**Vishal Pipes Limited** A-71,industrial Area,sikandrabad BULANDSHAHAR UP
		Name and Address of Respondent
2		C E & ST-Noida Ii OFFICE OF THE COMMISSIONER CENTRAL EXCISEHOTEL FORMULE 1, WEGMANS BUSINESS PARK, KP-III, GREATER NOIDA GOTAM BUDH NAGAR U.P.-

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

Ms. Pratiiksha Singh, Authoized Representative

32, Nishant Kunj, Kohat Enclave, Pitampura,

New Delhi-110034

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 AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

Ex.Appeal No.70532/17

Arising out of O/A No.NOI-EXCUS-002-APP-0034-17-18 dated 29.05.2017 passed by Commr. (Appeals) of Central Excise, Customs, Meerut II

M/s Vishal Pipes Ltd.

...APPELLANT(S)

VERSUS

Commr. of Central Excise, Customs & S.Tax, Noida II

RESPONDENT (S)

APPEARANCE

Ms.Pratiiksha Singh, Authorized Representative for the Appellant (s)
Shri Gyanendra Kr. Tripathi, Asstt.Commr. (A.R.) for the Revenue

CORAM:

MRS. ARCHANA WADHWA, HON'BLE JUDICIAL MEMBER

DATE OF HEARING : 14. 11. 2017
DATE OF PRONOUNCEMENT : 20|11|2017

Final ORDER NO. 71530|2017

Per Mrs.Archana Wadhwa :

As per facts on record, the appellant is engaged in the manufacture of M.S.Pipes and avails cenvat credit on input, namely, H.R.Coils. Sometimes, few quantity of such input is also removed as such upon which the appellant has paid an amount equal to cenvat credit availed on such input as required under Rule 3(5) of Cenvat Cerdit Rules, 2004. The Central Excise Department by treating such input removal as a "trading service" raised demand in terms of Rule 6 (3) of the Cenvat Credit Rules, on the ground that trading service is an exempted service. The same stands confirmed by the impugned order.

2. The issue is no more res-integra and stands settled by plethora of judgements. Reference is made to judgements in cases of (i) Bansal Alloys & Metals Ltd. Vs. CCEx., Chandigarh reported in 2010 (250) ELT 529 and (ii) A.R.Casting (P) Ltd. Vs. CCEx. & S.Tax, Chandigarh reported in 2010 (256) ELT 420, wherein Tribunal held that what is required at the time of removal of any inputs, as such, in respect of which cenvat credit has been taken, is that an amount equal to the credit availed in respect of such inputs is to be paid and there is no requirement to pay of 6% under Rule 6 (3) of the Cenvat Credit Rules, 2004. Further, the Tribunal of the Allahabad Bench, in its judgement in the case of CCEx. & S.Tax, Ghaziabad Vs. Vahaveer Cylinders Ltd. reported in 2016 (341) ELT 361 (Tri.-All), has held that removal of input as such by a manufacturer cannot be treated as trading activity and demand of 6% raised by the department under Rule 6 (3) of the Cenvat Credit Rules, 2004, has been set aside.

3. By following the above decisions, I find no merits in the Revenue's stand. Accordingly, the impugned order is set aside and appeal is allowed with consequential relief to the appellant.

(Pronounced in the open Court on 28/11/17)

Sd/-
(Archana Wadhawa)
Member(Judicial)

mm

प्रमाणित प्रति/Certified True Copy

7/12/17

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