

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

Dated: 22/11/2017

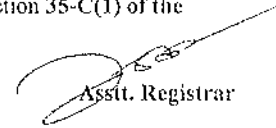
To

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

Copy To

3 Advocate(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 ICAFI 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.Pratiksha 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

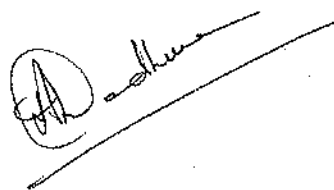
DATE OF PRONOUNCEMENT : 20/11/2017

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 Credit 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.





Ex.Appeal No.70532/17

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 26/11/17)

Sd/-

(Archana Wadhawa)

Member(Judicial)

mm

प्रमाणित प्रति/Certified True Copy

सहायक पंजीकृत/Asstt. Registrar  
सीमा शुल्क, उत्पाद शुल्क एवं सेवा कर  
अपील अधिकरण (A.E.S.T.A.T.)  
38, एम.जी.मार्ग, इ.कायाबाद-211001  
38, M. G. MARG, ALLAHABAD-211001

