

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

Dated: 30/11/2017

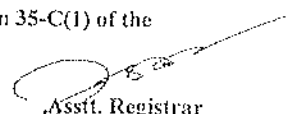
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71709/2017-SM[BR] dated 22/11/2017

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/COD/70331/2017	E/70684/2017	Simba Frp Private Limited A-24, industrial Area SIKANDRABAD UP

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 Advocate(s) / Consultant(s):

Praveen Kumar Sharma, Advocate
K-150, LAWYER'S CHAMBERS,
TIS HAZARI COURTS,
DELHI
110054

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)

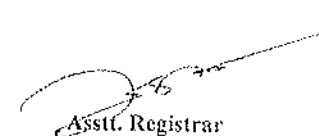
10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

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

COD Application No. E/COD/70331/2017 in
APPEAL No. E.70684/2017-EX[SM]

(Arising out of Order-in-Appeal No. NOI-EXCUS-002-APP-0035-17-18
dated 29/05/2017 passed by Commissioner of Central Excise & Customs
(Appeals), Noida)

M/s Simba Frp Private Ltd.

Appellant

Vs.

The Commissioner (Appeals), Noida

Respondent

Appearance:

Request for adjournment
Shri Mohd. Altaf (Asstt. Commr.) AR

for Appellant
for Respondent

CORAM:

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

Date of Hearing : 22/11/2017
Date of Decision : 22/11/2017

FINAL ORDER NO.: 71709/2017.....

Per: Archana Wadhwa



After rejecting the request for adjournment made by the appellant, I note that the issue in present appeal is to the condone delay of 30 days which stands attributed to the medical problems of the concerned consultant. Appreciating the same as also the fact that delay is on the lower side, I condone the same and allow the COD.

2. At this stage, I note that the appellants have been denied the benefit of Cenvat Credit of duty availed by them on

the ground that the same stands availed on the basis of ineligible documents i.e., photo copies of the invoices, bills of entries, etc. On the other hand the appellants have contended that credit was availed on the original copies which were lost subsequently and an F.I.R to that extent was also lodged.

3. It is well settled that substantive benefit available under law should not be disallowed on the procedural technicalities and if the appellant is otherwise able to establish from the parallel evidence that they have received the duty paid inputs, the benefit of Cenvat Credit has to be allowed to them. As such I set aside the impugned order and remand the matter to Original Adjudicating Authority for verifying the appellant's claim. It is made clear that the issue of limitation is left upon for fresh decision by the Adjudicating Authority. COD is allowed and appeal also get disposed of in above manner.

(Dictated and pronounced in Court)

Sd/-

(Archana Wadhawa)

Member(Judicial)

Ankit

प्रमाणित प्रतः/Certified True Copy

रजिस्टार ऑफिस/Asst. Registrar

विभागाध्यक्ष, कलकत्ता नगर न्यायालय

ऑफिस ऑफिस/Office of the

38, Bala, New, Kolkata-211001

38, A. C. ROAD, ALLAHABAD-211001

