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/70950/2017-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	Appeal	Name and Address of Appellant
1	E/70724/2016	**Barsana Industries** C-11,b S Road Ind. Area GHAZIABAD UP
		Name and Address of Respondent
2		C.C.E. & S.T.-Ghaziabad 202...WING A C.G.O. COMPLEX-II,KAMLA NEHRU NAGAR, GHAZIABAD, UTTAR PRADESH-201002

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Copy To
3Advocate(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, 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 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

<u>DATE OF HEARING/DECISION : 06/09/2017.</u>

Excise Appeal No. 70724 of 2016 (SM)

[Arising out of the Order-in-Appeal No. GZB/EXCUS/000/APP/0017/16-17 dated 22/04/2016 passed by The Commissioner (Appeals), Meerut – II, Central Excise & Customs, Noida.]

M/s Barsana Industries — Appellant

Versus

CCE & ST, Ghaziabad — Respondent

<u>Appearance</u>

Shri Rajesh Chhibber, Advocate – for the Appellant.

Shri Pawan Kumar Singh, Authorized Representative (DR) – for the Respondent.

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

Final Order No. 70950/2017 Dated : 06/09/2017

<u>Per. Ashok Jindal :-</u>

The Cenvat credit sought to be denied by way of impugned order on shortages detected during the course of investigation conducted in the factory premises of the appellant on 13/02/2013 on inputs.

Ashok

2. The facts of the case are that on 13th February, 2013 an investigation conducted in the factory premises of the appellant on 1315 hrs. A stock taking was conducted on eye estimation basis and it was found that appellant is recording in his statutory record inputs mainly MS Ingots and MS Billets jointly but it was alleged against the appellant that there was a shortage of MS Ingots as found short as recorded in their records. Therefore, the show cause notice issued to deny Cenvat credit to the appellant. Aggrieved from the said order, the appellant is before me.

3. Heard the parties perused the record.

4. I find that the shortages has been detected of stock taking on eye estimation basis of a particular input, whereas the appellant is maintaining records jointly of both the inputs and in the show cause notice this it is alleged that only one input is found short. As it is a fact on record that the appellant is recording both inputs jointly, in that circumstances, it is unbelievable how the stock of MS Ingots recorded in statutory records was determined. Moreover, the stock taking was done on eye estimation basis, if the stock taking done on eye estimation basis, it cannot be said that stock has been physically correctly counted.

5. In that circumstances, in the absence of any contrary evidence on record, it cannot be alleged that input were found

short. Therefore the Cenvat credit cannot be denied to the appellant.

6. With this observation, I do not find any merit with the impugned order, the same is set aside. In result, the appeal is allowed with consequential relief, if any.

(Dictated and pronounced in open court.)

Sd/-

(Ashok Jindal)

Member(Judicial)

PK

प्रमाणित प्रति/Cerified True Copy
21/09/17
सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण/(C.E.S.T.A.T.)
98, एम. जी. मार्ग, इलाहाबाद-211001
98 M. G. MARG, ALLAHABAD-211001