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/71547/2017-SM[BR] dated 17/11/2017

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/70757/2016	**Sheela Foam Pvt Ltd** Plot No. 51-a,udyog Vihar GREATER NOIDA UP
		Name and Address of Respondent
2		C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307

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

Pravin Sharma,
KF 84, KAVI NAGAR,
GHAZIABAD,
UTTAR PRADESH

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.70757/16

Arising out of O/O No.03/Commissioner/Noida-II/2016-17 dated 29.04.2016 passed by Commr. of Central Excise, Noida II

M/s Sheela Foam Pvt. Ltd.

...APPELLANT(S)

VERSUS

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

RESPONDENT (S)

APPEARANCE

Shri Pravin Sharma, Adv. for the Appellant (s)
Shri Gyanendra Kumar Tripathi, Asstt. Commr. (A.R.) for the Revenue

CORAM:

MRS. ARCHANA WADHWA, HON'BLE JUDICIAL MEMBER

DATE OF HEARING/DATE OF DECISION : 17. 11. 2017

Final ORDER NO.71547/2017

Per Mrs.Archana Wadhwa :

Cenvat Credit of Rs.6.00 lakhs (approx.) has been denied to the appellant on the sole ground that though the invoices on the basis of which such credit was availed by them, contained all the detailed particulars about the duty payment, but the appellant's address has not been given in the said invoices. In addition to confirm the demand, penalty of identical amount has been imposed upon them.

2. During the course of adjudication, the appellant got the invoices rectified and their name and address were included in the invoices. However, such rectification does not stand accepted by the lower authorities on the ground that the address was not initially given in the invoices and the

appellants have also another factory and there is possibility of use of the inputs in that factory as also chances of double availment of credit..

3. I find no merit in the above reasoning of the authorities below. The same are only in realm of assumption and presumption and the Revenue has not raised any doubt about the non-receipt of the goods by the appellants and the only objection was non-mentioning of their address in the invoices. When such a default was subsequently rectified by the appellants, Revenue raised a doubt about the possibility of their second unit having availed of credit. In the absence of any evidence, to that effect, the doubt entertained by the authorities below, cannot be upheld. Accordingly, I find no reason to deny the credit to the appellant. The impugned orders are accordingly, set aside and the appeal is allowed with consequential relief.

Dictated and pronounced in the open Court

Sd/-
(Archana Wadhawa)
Member(Judicial)

mm

प्रमाणित प्रति/Certified True Copy
07/12/17

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