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: 15/09/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71051/2017-SM[BR] dated 13/09/2017

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/70887/2016	**India Glycols Limited** E-1, Sector-15, Gida, GORAKHPUR UTTA R PRADESH 273209
		Name and Address of Respondent
2		C.C. & C.E. & S.T.-Allahabad 38...M G MARG...CIVIL LINES, ALLAHABAD, UTTAR PRADESH-211001

Copy To

3Advocate(s) / Consultant(s):

S. C. Kamra & Co.
B-2/210 (Basement)
Safdarjung Enclave,
New Delhi
Delhi
110029

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

DATE OF HEARING : 13/09/2017.
DATE OF DECISION: 13/09/2017.

Excise Appeal No. 70887 of 2016 (SM)

[Arising out of the Order-in-Appeal No. 425-CE/APPL-ALLD/LKO/ 2016 dated 27/06/2016 passed by The Commissioner (Appeals), Customs, Central Excise & Service Tax, Lucknow.]

M/s India Glycols Limited — Appellant

Versus

CCE & ST, Allahabad — Respondent

Appearance

Shri Karthikey Narain, Advocate – for the Appellant.

Shri Gyanendra Tripathi, Authorized Representative (DR) – for the Respondent.

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

Final Order No. 71051/2017 Dated : 13/09/2017

Per. Ashok Jindal :-

The short issue involved in the present appeal is as to whether the appellant, who are manufacturer of Denatured Ethyl Alcohol and Fusel Oil and is availing the benefit of Cenvat credit of duty paid on the molasses, is entitled to avail the full duty paid on the quantum of the molasses recorded by him or the said

Ashok Jindal

credit is required to be reduced to the extent of molasses lost on account of storage. It is seen that the lower authority has held that the duty related to the storage loss of the molasses cannot be allowed to be availed as credit by the lower authorities.

2. I note that the loss had occurred on account of natural phenomena and was within the prescribed limit of 2% as laid down by the Board Circular dated 6/2/82. I also find that as identical issue is covered by the earlier decision of the Tribunal in the appellant's own case reported as India Glycols Ltd. and Shri V.M. Tiwari vs. CCE vide final order dated 27/4/2004 reported as 2004 (96) ECC 356. It stands held by the Tribunal as under :-

> 4. After hearing both sides and on going through the decisions relied on by the appellant, we find no reason to take a different view. In the case of Kesar Enterprises, Learned Member has considered the issue. He has placed reliance on several other decision of this Tribunal. We find that the Revenue was not successful in appeal against the decision of the Tribunal before the Supreme Court. For the purpose of Cenvat credit, we do not find a different view to be taken where the input is molasses and the quantity is reduced due to storage.

3. By following the above decision, I find no justification for denial of Cenvat credit in respect of the molasses lost during storage when admittedly the duty stands paid by the manufacturer on the full quantum of the molasses. The impugned

order is accordingly set aside and the appeal allowed with consequential relief to the appellant.

(order dictated and pronounced in the open court.)

Sd/-

(Ashok Jindal)

PK Member(Judicial)

प्रमाणित प्रति/Certified True Copy
28/09/17
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