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

Dated: 02/01/2018

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. A/70032/2018-SM[BR] dated 01/01/2018

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) of the **Finance Act, 1994 relating to Service Tax Act, 1994.**

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	ST/52624/2015	**Six Sigma Certification Pvt Ltd** Sf-34, Ansal Fortune Arcade, K-block, Secotr-18 NOIDA UP
		Name and Address of Respondent
2		C.C.E. & S.T.-Meerut-i EXCISE CHOWK,,UNIVERSITY ROAD,MANGAL PANDEY NAGAR, MEERUT, UTTAR PRADESH-250005

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

Rajesh Chhibber C/O
A. K. Batra & Associates
A-36, Ist Floor,
Rajouri Garden, Ring Road,
New Delhi,
Delhi

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

APPEAL No. ST/52624/2015-ST[SM]

(Arising out of Order-in-Appeal No. NOI/SVTAX/000/APPL-I/04/2015-16 dated 17/04/2015 passed by Commissioner of Central Excise (Appeals-I), Meerut)

M/s Six Sigma Certification Pvt. Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Meerut **Respondent**

Appearance:

Shri Rajesh Chhibber, Advocate, for Appellant
Shri Gyanendra Kumar Tripathi, Assistant Commissioner (AR), for Respondent

CORAM:

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing & Date of Decision : 27/12/2017

FINAL ORDER NO. 70032/2018

Per: Anil G. Shakkarwar

The present appeal is arising out of Order-in-Appeal No. NOI/SVTAX/000/APPL-I/04/2015-16 dated 17/04/2015 passed by Commissioner of Central Excise (Appeals-I), Meerut.

2. The brief facts of the case are that appellants were providing taxable service under the category of 'Management Consultant Services', 'Technical Testing & Certification Services', 'Commercial Training & Coaching Services'. They were issued with a Show Cause Notice dated 12/11/2013 with a proposal for denial of Cenvat credit amounting to

Rs.7,59,184/- on the grounds that in some of the invoices address of the appellant was not mentioned and as such requirement of Sub-rule (2) of Rule 9 of Cenvat Credit Rules, 2004, was not complied with. Another issue involved was whether the Mandap Keeping Services & Hotels/Restaurants Services received can qualify to be input services. Proceedings culminated to the passing of impugned Order-in-Appeal, wherein the ld. Commissioner (Appeals) has allowed Cenvat credit of Service Tax paid in respect of services rendered by Hotels/Restaurants where the facilities within the premises of the Hotels/Restaurants were availed. Cenvat credit in respect of Hotels/Restaurants services where only lunch/dinner/food was supplied but the premises of the Hotels/Restaurants was not provided was denied holding that serving of lunch/dinner/food was not input service. Further in respect of the invoices which did not have the address of the appellant, Cenvat credit was disallowed by ld. Commissioner (Appeals). Aggrieved by the said order appellant is before this Tribunal.

3. Heard the ld. Counsel for the appellant. He has submitted that it is provided in proviso to Sub-rule (2) of Rule 9 of Cenvat Credit Rules, 2004 that if there is any deficiency in the document then the Jurisdictional Assistant Commissioner can satisfy himself that the said Services covered by the said documents, having received and accounted for in the books of account of the receiver of

service and then allow such Cenvat credit. He has also submitted that there were occasions when the facility within the premises of Hotels/Restaurants was not utilized but a full day seminar was organized and lunch/dinner/food was provided. He has submitted that presumption that unless place was provided by Hotels/Restaurants, it does not become input service, is not tenable in law.

4. Heard the ld. A. R. for Revenue, who has supported the impugned Order-in-Appeal dated 17/04/2015.

5. Having considered the rival contentions and on perusal of the records, I am inclined to accept the contention of the ld. Counsel for the appellant that it cannot be presumed that unless the facility of premises is provided by a Hotel/Restaurant, it cannot be considered as input service. I, therefore, allow Service Tax paid on Restaurant service as input service credit to the appellant. Further, I remand the remaining part of the proceeding to the Original Authority in respect of disputed credit availed on the basis of such documents which have deficiency such as absence of the address of the appellant, etc. for verification by the Original Authority as provided under proviso to Sub-rule (2) of Rule 9 of Cenvat Credit Rules, 2004. I direct the Original Authority to carry out such verification in respect of those documents as provided by said proviso and then allow Cenvat credit in respect of such invoices which satisfy the requirement of said proviso.

6. In above terms, appeal is partially allowed and partially allowed by way of remand.

(Dictated in Court)

Sd/-

ANIL G. SHAKKARWAR

(MEMBER TECHNICAL)

Ansari

प्रमाणित प्रति/Certified True Copy

21/02/18

Asstt. Registrar

(C.E.S.T.A.T.)

ALLAHABAD-211001