FAX : 0532-2400149

REGISTERED / AD

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

To

Dated: 23/06/2017

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70586/2017-SM[BR] dated 22/06/2017

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/52783/2015	BAJAJ HINDUSTHAN SUGAR LTD BARKHERA PILIBHIT UP
		Name and Address of Respondent
2		C.C.E. & S.T.-Meerut-ii OPPOSITE SHAHEED SMARAK,DELHI ROAD...BHANSALI GROUND, MEERUT, UTTAR PRADESH-

Copy To

3 Advocate(s) / Consultant(s):

BIPIN GARG & CO. ADVOCATES(ALLD)
102, MAHALAXMI ENCLAVE (ADJ. INCOME TAX OFFICE), STANLEY ROAD, CIVIL LINES, ALLAHABAD (U.P.)-211001

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
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. ST/52783/2015-ST[SM]

(Arising out of Order-in-Appeal No. HPU/EXCUS/000/APPEALS-I/227-14-15 dated 31/03/2015 passed by Commissioner of Central Excise (Appeals-I), Meerut)

Bajaj Hindustan Sugar Ltd. **Appellant**

Vs.

C.C.E. & S.T. –Meerut-II **Respondent**

Appearance:

Ms. Stuti Saggi (Advocate), for Appellant
Shri Pawan Kumar Singh (Suptd.) AR. for Respondent

CORAM:

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

Date of Hearing : 22/06/2017
Date of Decision : 22/06/2017

FINAL ORDER NO....70586/2017

Per: Anil G. Shakkarwar

The present appeal is directed against the Order-in-Appeal No. HPU/EXCUS/000/APPEALS-I/227-14-15 dated 31.03.2015 passed by Commissioner of Central Excise, (Appeals), Meerut-II.

2. The appellants are manufacturers of Sugar and Molasses. The appellants were issued with a show cause notice dated 23.10.2013, wherein it was contended that the appellants were not admissible to avail Cenvat Credit of input

service in respect of Service Tax paid on Commission and brokerage paid to dealers/agents/broker for sale of their final product. There was a proposal to recover Cenvat Credit of Rs. 15,29,020/-. The issue was adjudicated through Order-in-Order dated 10.10.2014. The Original Authority confirmed the demand and directed the appellant to pay interest also. Aggrieved by the said order appellant preferred appeal before Commissioner (Appeals). The appellant contended before Commissioner (Appeals) that as per the CBEC Circular dated 29.04.2011, the appellants were entitled to avail Cenvat Credit on Sales Commission Services obtained by them. Even though it was clarified so by CBEC, the learned Commissioner (Appeals) dismissed the appeal and upheld the said Order-in-Original dated 10.10.214 through which such Cenvat Credit was disallowed. Therefore, the appellant is before this Tribunal.

3. Heard learned Counsel for the appellant. Learned Counsel has submitted a copy of Circular No. 943/04/2011-CX dated 29.04.2011 issued by Central Board of Excise, Customs, New Delhi, wherein at Sr. No. 5 it is clarified that the credit of Service Tax paid on account of Sales Commission was admissible. She also submitted a copy of ruling of Hon'ble Supreme Court in the case of Collector of Central Excise, Vadodara vs. Dhiren Chemical Industries reported at 2002 (139) ELT 3 (SC) and submitted that Hon'ble Supreme Court

in 'Para 9' of said ruling have ruled that if there are circulars which have been issued by the Central Board of Excise and Customs ~~thus~~ then the same will be binding upon the Revenue.

4. Heard the learned AR who has supported the impugned Order-in-Original.

5. Having considered the rival contentions, I hold that as ruled by Hon'ble Supreme Court in the above stated case law that CBEC Circulars are binding on Revenue officials and in view of clarification at Sr. No. 5 of above stated Circular dated 29.04.2011 issued by CBEC, I hold that the Service Tax paid on account of Sales Commission is admissible as input Service Credit to the manufacturer dutiable goods. Therefore, the appeal of the appellant is allowed by setting aside the impugned Order-in-Appeal. In above terms the Appeal is allowed.

(Dictated and pronounced in Court)

-Sd/-
(ANIL G. SHAKKARWAR)
Member (TECHNICAL)

Ankit

प्रमाणित प्रति/Certified True Copy
04/07/2017
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