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: 11/09/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70863/2017-SM[BR] dated 06/09/2017

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/70052/2016	**Commissioner CUSTOMS Central EXCISE and SERVICE TAX-Noida** C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH 201307

Name and Address of Respondent

2 Safenet Infotech Pvt Ltd
Plot No.-12a,sector-125,,
NOIDA
,UP

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

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 : 06/09/2017.
DATE OF DECISION : 06/09/2017.

Service Tax Appeal No. 70052 of 2016 (SM)

[Arising out of the Order-in-Appeal No. NOI/SVTAX/000/APPEALS -I/257/2015-16 dated 30/09/2015 passed by The Commissioner (Appeals), Central Excise (Appeals – I), Meerut.]

CCE & ST, Noida — Appellant

Versus

M/s Safenet Infotech Pvt. Ltd. — Respondent

Appearance

Shri Mohd. Altaf, Authorized Representative (DR) – for the Appellant.

None – for the Respondent.

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

Final Order No. 70863 /2017 Dated : 06/09/2017

Per. Ashok Jindal :-

The Revenue is in appeal against the impugned order.

2. The brief facts of the case are that respondent were providing taxable services namely Information Technology Software Services service falling under Section 65 (105) (zzzq) of the Finance Act, 1994. The respondent filed a refund claim of Rs. 13,45,426/- under Rule 5 of the Cenvat Credit Rules, 2004

readwith Notification No. 27/2012-CE (NT) dated 18/06/2012 in respect of the Cenvat credit taken by them during the period July 2013 to September 2013 on input services lying unutilised in their Cenvat credit account. During the course of scrutiny, it was found that the respondent has not made the debit entry in their Cenvat credit account with regard to the refund claim in question. Therefore, refund claim filed by the respondent sought to be denied, consequently the show cause notice was issued. The matter was adjudicated. The Adjudicating Authority on verification found that the respondent has made the debit entry in their Cenvat credit account sanctioned the refund claim. The said order was challenged before the learned Commissioner (Appeals) who also uphold the adjudication order. Aggrieved from the said order, Revenue is before me.

3. The learned AR submits that as the respondent has not complied with the condition of the Notification No. 27/2012-CE (NT), therefore, they are not entitled for refund claim.

4. Heard the parties considered their submissions.

5. I find that it is a fact on record that the respondent has made debit entry in their Cenvat credit account with regard to the refund claim and same has been verify by the Adjudicating Authority, thereafter Adjudicating Authority sanctioned the claim, in that circumstances the substantial benefit of the notification cannot be denied to the respondent, therefore I do not find any

infirmity in the impugned order. The same is upheld. The appeal filed by the Revenue is dismissed.

(Dictated and pronounced in open court.)

Sd/-

(Ashok Jindal)

Member(Judicial)

PK

प्रमाणित प्रति/Certified True Copy
19/09/17

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