

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

Dated: 15/09/2017

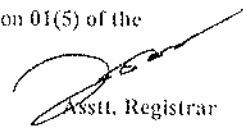
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71002-71003/2017-SM[BR] dated 11/09/2017

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/70053/2016	Commissioner CUSTOMS Central EXCISE and SERVICE TAX-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH 201307
2	ST/70438/2016	Commissioner CUSTOMS Central EXCISE and SERVICE TAX-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH 201307

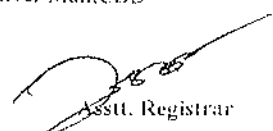
Name and Address of Respondent

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

Sdg Software India (p) Ltd
A-10, sector-2,,
NOIDA
,UP

Other Appellants and Respondents as per Annexure
Copy To

- 5 Bar Association, CESTAT, Allahabad
- 6 Director Publications, Customs, Excise, I.P. Estate, Delhi
- 7 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3
- 8 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaidhyaram Street, T. Nagar, Chennai-17
- 9 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
- 10 LAWCRUX Advisors Pvt. Ltd., LAW House, I-8, Sector-10, Faridabad 121003 (Haryana)
- 11 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070
- 12 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 38
- 13 The ICFAI society, 52, Nagarjuna Hill, Punjagutta Hyderabad.-500082
- 14 M/S Knowledge Processing Pvt. Ltd.(taxmanagementindia.com), FF-19, 1st Floor, Cross River Mall, CBD Ground, Near Karkardooma Court, Delhi-110032
- 15 C.D.R.
- 16 Office Copy
- 17 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 : 11/09/2017.
DATE OF DECISION : 11/09/2017.

Service Tax Appeal No. 70053 of 2016 (SM)

[Arising out of the Order-in-Appeal No. NOI/SVTAX/000/APPL-I/254/2015-16 Dated 30/09/2015 passed by The Commissioner (Appeals), Central Excise (Appeals – I), Meerut.]

CCE, Noida

Appellant

Versus

M/s Safenet Infotech Pvt. Ltd.

Respondent

Appearance

Shri Sandeep Kumar Singh, Authorized Representative (DR) – for the Appellant.

None – for the Respondent.

Service Tax Appeal No. 70438 of 2016 (SM)

[Arising out of the Order-in-Appeal No. NOI/SVTAX/000/APPL-I/407/2015-16 Dated 22/12/2015 passed by The Commissioner (Appeals), Central Excise (Appeals – I), Meerut.]

CCE, Noida

Appellant

Versus

M/s SDG Software India (P) Ltd.

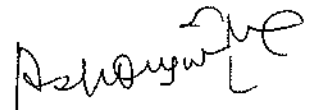
Respondent

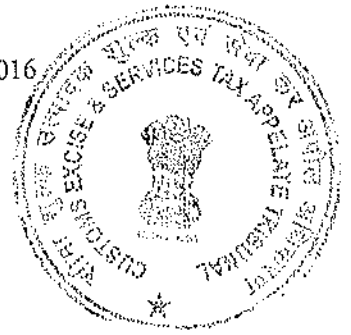
Appearance

Shri Sandeep Kumar Singh, Authorized Representative (DR) – for the Appellant.

Shri Kathikey Narain, Advocate – for the Respondent.

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





Final Order No. 71002-71003/2017 Dated : 11/09/2017

Per. Ashok Jindal :-

Revenue is in appeal against the impugned orders wherein the learned Commissioner (Appeals) allowed the refund claim filed by the respondent under Rule 5 of the Cenvat Credit Rules, 2004 readwith Notification No. 27/2012-CE (NT) dated 18/06/2012.

2. The facts of the case are that the respondents filed refund claim under Rule 5 of the Cenvat Credit Rules, 2004 readwith Notification No. 27/2012-CE (NT) dated 18/06/2012 the refund claim sought to be denied by issuance of show cause notice for default in condition of the notification condition No. 2 (h) of the Notification No. 27/2012-CE (NT) ibid to say that respondent have not debited the amount equal to the refund claim at the Cenvat credit account at the time of availing the claim except in the case of M/s SDG Software India (P) Ltd., the Adjudicating Authority after examining the documents found that the respondent have debited the amount equal to the refund claim in their Cenvat credit account allowed the refund claim but in the case of M/s SDG Software India (P) Ltd., the Adjudicating Authority rejected the refund claim but learned Commissioner (Appeals) on appeal filed by the parties after verifying the record that the condition No. 2 (h) of the notification has been complied

Ashok Jindal

with allowed the refund claim. Aggrieved from the said order, Revenue is in appeal.

3. The sole ground for filing the appeals by the Revenue is that at the time of filing the refund claim, the respondent have not debited the amount in their Cenvat credit account, therefore, they are failed to comply with the condition No. 2 (h) of the notification, therefore, refund claim has been rejected.

4. Heard the parties.

5. On perusal of the record, I find that authorities below has examined the records and found that before sanctioning the refund claim, the amount equal to refund claim has been debited in their Cenvat credit account in terms of condition No. 2 (h) of the Notification No. 27/2012-CE (NT).

6. In that circumstances, I do not find any infirmity with the impugned orders. The same are upheld. The appeals filed by the Revenue are dismissed.

(Dictated and pronounced in open court.)

Sd/-

(Ashok Jindal)

PK

Member(Judicial)

प्रमाणित प्रति/Certified True Copy
27-10-2017
सहायक रजिस्ट्रार/Asstt. Registrar
खानपुरा, जयपुर/खानपुरा एवं सेवा कर
अधीन प्रविष्टि/Under C.E.S.T.A.T.)
39, म.जी.मार्ग, इलाहाबाद-211001
39, M. G. MARG, ALLAHABAD-211001