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: 12/01/2018

To

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

Final Order No. A/70141-70142/2018-EX[DB] dated 08/01/2018

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/1028/2010	CCE, MEERUT-I Excise Chowk,Opposite Choudhary Charan Singh University Mangal Panday Nagar, Meerut - 250005.
2	E/1029/2010	CCE, MEERUT-I Excise Chowk,Opposite Choudhary Charan Singh University Mangal Panday Nagar, Meerut - 250005.
		Name and Address of Respondent
3		ASPG INFRASTRUCTURES PVT. LTD. NEAR PARAG DAIRY, GAGOL ROAD, PARTAPUR, MEERUT.(U.P)
4		ASPG INFRASTRUCTURES PVT. LTD. NEAR PARAG DAIRY, GAGOL ROAD, PARTAPUR, MEERUT.(U.P.)

Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s):

Ka rtikeya Narain,Advocate
IST FLOOR, UNION BANK BUILDING,
KHUNI PUL, BEGUM BRIDGE ROAD,
MEERUT,
UTTAR PRADESH

6 Bar Association, CESTAT, Allahabad

7 Director Publications, Customs, Excise, I.P. Estate, Delhi

8 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

9 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

10 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

11 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

12 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

14 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

15 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

16 C.D.R. 17 Office Copy 18 Second Folder Copy 19 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

E/1028 & 1029/2010 (DB)

Arising out of O/A No.212-CE/MRT-I/2010, 171-CE/MRT-I/2009, dated 23.02.2010, 22.01.2010 passed by Commissioner(Appeals), Central Excise, Meerut-I.

Commissioner of Central Excise, Meerut-i ...APPELLANT(S)

VERSUS

M/s.ASPG Infrastructures Pvt.Ltd.

RESPONDENT (S)

APPEARANCE

Shri Mohd.Altaf (Assitt.Commr.)(AR) for the Revenue
Snhri Kartikeya Narain(Advocate)(A.R.) for the Respondent

CORAM:

MRS. ARCHANA WADHWA, HON'BLE(JUDICIAL)
SHRI ANIL G. SHAKKARWAR, MEMBER(TECHNICAL)

DATE OF HEARING/DATE OF DECISION : 08.01.2018

FINAL ORDER NO. 70141-70142/2018

Per Mrs.Archana Wadhwa :

Both the appeals filed by the Revenue are being disposed of by a common order as they arise out of the same set of facts and circumstances.

2. After hearing both sides duly represented by Shri Mohd.Altaf (Assitt.Commr.)(AR) for the Revenue and Shri Kartikeya Narain(Advocate)(A.R.) for the Respondent we find that the appellants were engaged in the manufacture of structurals of iron and steel as also their galvanization. Activity of galvanization was also being done by them on job-

work basis out of the material supplied by their principal manufacturer. They were paying duty on the said job charges.

3. Revenue entertained a view that the respondents were required to include the value of the material supplied by the principal manufacturer in the assessable value of the galvanized goods and as such initiated proceedings against them resulting in confirmation of demand of duty to the extent of around Rs.14.00 lakhs. However, no penalty was imposed by the original adjudicating authority.

4. On appeal Commissioner(Appeals) held that there is no need for adding the value of the material supplied by the principal manufacturer inasmuch as the assessee was working in terms of the provisions of Notification No.214/86-CE. As regards the Revenue's appeal against non-imposition of penalty, he rejected the same by observing that as the assessee's appeal has been allowed, nothing survives in the Revenue's appeal.

5. Hence the present two appeals by the Revenue.

6. Ld.advocate appearing for the respondent submits that the issue is no more res integra and stands settled by the decision in the cases of Vako Seals Pvt.Ltd. v. Commissioner of C.Ex., Mumbai-V [2016 (344) E.L.T. 482 (Tri.-Mumbai)] and Dhana Singh Synthetics Pvt.Ltd. v. Commr. of C.Ex, Cus & S.T., Vapi [2015 (326) ELT 609 (Tri.-Ahmd.)].

7. Otherwise also we note that the respondent was admittedly working under Notification No.214/86 in which no duty liability would arise against him as the said Notification requires the goods to be sent back to the principal manufacturer, after the job work done and principal manufacturer is required to give a declaration to the effect that the same would be used by him in the manufacture of his final product, which would be cleared on payment of duty. In such a scenario we are of the view that no differential duty can be ~~imposed~~ confirmed

against the assessee. In view of the above, both the appeals of the Revenue challenging duty dropping as also setting aside of penalty lack merits and accordingly are rejected.

(Pronounced and dictated in the open Court)

Sd/-
Anil.G. Shakkarwar
Member(Technical)

Sd/-
(Archana Wadhawa)
Member (Judicial)

प्रमाणित-प्रति/Certified True Copy

12/02/18

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

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