

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: 09/01/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70073/2018-EX(DB) dated 04/01/2018

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/1675/2012	Gallantt Ispat Ltd Plot No. 5, Sector-23, Po- sahjanwa, Distt Gorakhpur-up
		Name and Address of Respondent
2		C.C. & C.E. & S.T.-Allahabad 38...M G MARG...CIVIL LINES, ALLAHABAD, UTTAR PRADESH-211001

Copy To

3 Advocate(s) / Consultant(s):

Amit Awasthi
H-1, 1ST FLOOR, RADHEY
APARTMENT,
PLOT NO. 7/116A, SWAROOP
NAGAR,
KANPUR,
UTTAR PRADESH
208002

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 AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD**

E/1675/2012

Arising out of O/O No.MP(DEM.-29/2011)06 OF 2012 dated 26.03.2012
passed by Commissioner of Central Excise & Service Tax, Allahabad.

M/s. Gallant Ispat Ltd.

...APPELLANT(S)

VERSUS

Commissioner of Central Excise, Allahabad

RESPONDENT (S)

APPEARANCE

Absent on call for the Appellant (s)
Shri Pawan Kumar Singh(Supdt.)(A.R.) for the Revenue

CORAM:

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

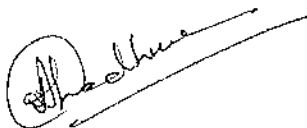
DATE OF HEARING/DATE OF DECISION : 04.01.2018

FINAL ORDER NO. 70073/2018

Per Mrs.Archana Wadhwa :

Nobody appeared for the appellant. Accordingly we have heard
the Id.AR and have gone through the impugned order.

2. We note that the main Cenvat credit stands denied to the
appellant in respect of MS sheets, angles, channels, MS plates etc. on
the ground that they are being used as supporting structurals, which
cannot be held to be Cenvatable after the insertion of explanation 2 to
Rule 2(k) of Cenvat Credit Rules, 2005. Further a part of the credit also



stands denied in respect of welding electrodes used for repair and maintenance in the appellant's factory.

3. We find that both the issues now stand decided in favour of the assessee. Reference can be made to Hon'ble Gujarat High Court's decision in the case of Mundra Ports & Special Economic Zone Ltd. v. CCE & Cus. [2015 (39) STR 726 (Gujarat)], wherein the larger Bench of the Tribunal in the case of Vandana Global Ltd. v. CCE, Raipur [2010 (253) ELT 440 (Tri.-LB)] was not agreed upon. Similarly in the case of welding electrodes also there are many ^{decisions of AP} ~~to various~~ Hon'ble High Courts which are being ^{constantly} ~~constant~~ followed by the Tribunal.

4. Inasmuch as we are not having the assistance of the Id. Advocate for referring to the said decisions and for examining the scope of use of each and every item, we deem it fit to set aside the impugned order and remand the matter to original adjudicating authority for fresh decision in the light of the precedent decisions of the higher courts. Needless to say that the appellant would be given an opportunity to put forth their case before the adjudicating authority.

(Operative part of the order was pronounced in the open Court)

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

Sd/-
(Archana Wadhawa)
Member (Judicial)

sm

प्रमाणित प्रतः/Certified True Copy

सहायक पंजीयन/Asstt. Registrar
सीमा शुल्क, रायपुर (C.E.S.T.A.)
अधीन अधिनियम/Under Act
38, एन.जी.मार्ग, गुवाहाटी-781001
38 N.G. MARG, ALLAHABAD-211001

