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: 15/09/2017

To

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

Final Order No. A/71050/2017-SM[BR] dated 13/09/2017

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/70505/2016	**Sand Martin Consultants Pvt Ltd** C-14, Sector-7, NOIDA U.P. 201301
		Name and Address of Respondent
2		C.C.E. & S.T.-Meerut-i EXCISE CHOWK...UNIVERSITY ROAD,MANGAL PANDEY NAGAR, MEERUT, UTTAR PRADESH-250005

Copy To

3 Bar Association, CESTAT, Allahabad

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

5 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

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

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

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

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

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

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

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

13 C.D.R. 14 Office Copy 15 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 : 13/09/2017.
DATE OF DECISION : 13/09/2017.

Service Tax Appeal No. 70505 of 2016 (SM)

[Arising out of the Order-in-Appeal No. NOI/SVTAX/000/APPL-I/523/2015-16 Dated 23/02/2016 passed by The Commissioner (Appeals-I), Central Excise (Appeals – I), Meerut.]

M/s Sand Martin Consultants Pvt. Ltd. — Appellant

Versus

CCE & ST, Meerut – I — Respondent

Appearance

None – for the Appellant.

Shri Pawan Kumar Singh, Authorized Representative (DR) – for the Respondent.

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

Final Order No. 71050/2017 Dated : 13/09/2017

Per. Ashok Jindal :-

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

Ashok Jindal

2. The facts of the case are that the appellant 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 appellant has not debited the amount equal to the refund claim at the Cenvat credit account at the time of availing the claim, the Adjudicating Authority after examining the documents found that the appellant has debited the amount equal to the refund claim in their Cenvat credit account allowed the refund claim but learned Commissioner (Appeals) on appeal filed by the party after verifying the record that the condition No. 2 (h) of the notification has been complied with allowed the refund claim. Aggrieved from the said order, Revenue is in appeal.

3. The sole ground for filing the appeal by the Revenue is that at the time of filing the refund claim, the appellant has not debited the amount in their Cenvat credit account, therefore, assessee 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

Ashok Jindal

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 order. The same is upheld. The appeal filed by the appellant is allowed.

(Dictated and pronounced in open court.)

Sd/-

(Ashok Jindal)

PK

Member(Judicial)