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: 28/08/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70798/2017-SM[BR] dated 22/08/2017

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/70534/2016	**Commissioner CUSTOMS Central EXCISE and SERVICE TAX-Noida** C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH 201307
		Name and Address of Respondent
2		Freescale Semiconductor India Pvt Ltd. 2,3 & 18, Sector-16 A,,, NOIDA ,U.P.

Copy To

3Advocate(s) / Consultant(s):

Hrishikesh, Advocate, ALD
3/1A/3 OPP AUTO SALES,Above the Office Of Blue Dart/DHL Courier, COLVIN ROAD, LOHIA MARG ALLAHABAD-211001

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
REGIONAL BENCH : ALLAHABAD
COURT No. 1

APPEAL No.ST/70534/2016-ST[SM]

(Arising out of Order-in-Appeal No.NOI/SVTAX/000/APPEALS-I/475/2015-16 dated 29/01/2016 passed by Commissioner of Central Excise (Appeals-I), Meerut)

Commissioner of Service Tax, Noida	**Appellant**
Vs.	
M/s Freescale Semiconductor India Pvt. Ltd.	**Respondent**

Appearance:

Shri Mohamad Altaf, Assistant Commissioner (AR)	for Appellant
Shri Hrishikesh, Advocate	for Respondent

CORAM:

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 22/08/2017
Date of Decision : 22/08/2017

FINAL ORDER NO.:70738/2017

Per: Anil G. Shakkarwar

The present appeal is filed by the Revenue is directed against Order-in-Appeal No.NOI/SVTAX/000/APPEALS-I/475/2015-16 dated 29/01/2016 passed by Commissioner of Central Excise (Appeals-I), Meerut.

2. Brief facts of the case are that the respondent filed application dated 30.03.2015 for refund for the quarter October, 2014 to December, 2014 under Rule 5 of Cenvat

Credit Rules, 2004. The respondent initially filed application for refund of Rs.35,35,852/-. The Original authority through Order-in-Original dated 08.07.15 held that respondents were entitled for refund of Rs.34,79,252/- and allowed the refund of Rs.34,79,252/-. Aggrieved by the said order, revenue preferred appeal before learned Commissioner (Appeals) contending that the said order of original authority was in violation of Clause (g) & (h) of para-2 of Notification No.27/2012-CE(NT) dated 18th June, 2012, through which procedure for grant of refund under the said Rule 5 of Cenvat Credit Rules, 2004 was laid down. The Learned Commissioner (Appeals) through the impugned Order-in-Appeal dated 29.01.2016 adjudicated the said grounds raised by revenue and held that the appeal filed by Revenue did not have any merit. The grounds raised by Revenue before the learned Commissioner (Appeals) were that the respondent did not comply with conditions of clause (g) & (h) of para-2 of the said notification No.27/2012-CE(NT). The learned Commissioner (Appeals) has held that the respondent complied with both the said conditions. Aggrieved by the said order, Revenue preferred this appeal before this Tribunal.

3. Heard the learned A.R. for revenue and learned Counsel for respondent.

4. Having considered the submissions made by both sides and on perusal of records, I find that the grounds of appeal raised by Revenue before this Tribunal are the same grounds of appeal which were raised before the learned Commissioner (Appeals) and which have already been adjudicated. The grounds of appeal do not contain any submissions as to how decision of learned Commissioner (Appeals) on the same grounds of appeal was not tenable in law. Therefore, the grounds of appeal raised by Revenue in the present appeal are not sustainable. Therefore, appeal filed by revenue is rejected. The respondent shall be entitled for consequential relief, as per law.

(Dictated in Court)

-Sd/-
(ANIL G. SHAKKARWAR)
Member (TECHNICAL)

akp

प्रमाणित प्रतिलिपि/Certified True Copy
05/09/17
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