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: 11/09/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70871/2017-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/70777/2016	**Headstrong Services India Private Ltd** D-4,sector-59 NOIDA UP
		Name and Address of Respondent
2		C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307

Copy To

3Advocate(s) / Consultant(s):

Shashi Mathews (Advocate)
7,FIRST FLOOR,ATMA RAM MANSION,SCINDIA HOUSE,K.G. MARG,CANNAUGHT PLACE,NEW DELHI-110001

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. I

APPEAL No.ST/70777/2016-ST[SM]

(Arising out of Order-in-Appeal No.NOI/SVTAX/000/APPEALS-I/600/2015-16 dated 29/03/2016 passed by Commissioner of Central Excise (Appeals-I), Meerut)

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

Appearance:

Shri Shashi Mathews, Advocate	for Appellant
Shri Pradeep Kumar Dubey, Supdt (AR).	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.– 70871/2017

Per: Anil G. Shakkarwar

The present appeal is directed against Order-in Appeal No. NOI/SVTAX/000/APPEALS I/600/2015-16 dated 29/03/2016 passed by Commissioner of Central Excise (Appeals-I), Meerut.

2. The brief facts of the case are that the appellants filed a refund claim of Rs.35,17,824/- on 30th December, 2014 under Rule 5 of Cenvat Credit Rules, 2004, for the quarter January, 2014 to March, 2014 and on scrutiny through their letters dated 21.05.2015 and 12.08.2015 appellant withdraw the claim for amount of

Rs.1,89,904/-. The original authority through Order-in-Original dated 13.08.2015 allowed the refund of Rs.33,27,920/-. Aggrieved by the said order, Revenue preferred appeal before Commissioner (Appeals). The said appeal was adjudicated by the learned Commissioner (Appeals) through the impugned Order-in-Appeal dated 29.03.2016 wherein the appeal of Revenue was allowed. Aggrieved by the said order, appellant is before this Tribunal.

3. Heard the learned Counsel for appellant.

4. Heard the learned A.R. for Revenue, who has supported the impugned Order-in-Appeal.

5. Having considered the rival contentions and on perusal of records, I find that the learned Commissioner (Appeals) has allowed the appeal filed by Revenue by setting aside the said Order-in-Original dated 13.08.2015 to that extant it was appealed against. As per para-3.5 of the impugned Order-in-Appeal the said Order-in-Original dated 13.08.2015 was appealed against amount sanctioned to the appellant in excess of Rs.14,13,383/-. The ground for the said relief was that the appellant had a balance of Rs.14,13,383/- in their Cenvat account as per ST-3 return filed for the period from October, 2014 to March, 2015. I find that the balance of Cenvat credit in

the books of account of appellant as on 31st March, 2015 as no relevance, so far as refund under Rule-5 of Cenvat Credit Rules, 2004 was filed for the quarter January, 2014 to March, 2014, under Clause (g) under para-2 of Notification No.27/2012-CE(NT) dated 18th June, 2012 provisions do not take into consideration any other balance of Cenvat credit in the books of account than the balance at the quarter ending the period for which refund was applied for or the balance at the time of filing of refund claim. The refund claim was filed for quarter January, 2014 to March, 2014 and refund application was filed on 31stDecember, 2015. Therefore, under the said provisions of clause (g) of para-2 of the said notification balance in Cenvat credit relying as on 31st March, 2015 as no relevance. Therefore, I set aside the impugned Order-in-Appeal and restore the Order-in-Original dated 13.08.2013.

6. In above terms, the appeal is allowed. Appellant shall be entitled to consequential relief, as per law.

(Dictated in Court)

-Sd/-

(ANIL G. SHAKKARWAR)

Member(TECHNICAL)

सत्यापित प्रति/Certified True Copy

14/09/19

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

akp