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: 12/09/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70962/2017-SM[BR] dated 07/09/2017

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/70874/2016	**Kiwi Technologies India Pvt Ltd** B-9,sector-3 NOIDA UP 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
REGIONAL BENCH : ALLAHABAD
COURT No. II

APPEAL No.ST/70874/2016-EX[SM]

(Arising out of Order-in-Appeal No. NOI-SVTAX/000/APPEALS-/33/2015-16 dated 25/04/2016 passed by Commissioner of Customs & Central Excise (Appeals-I), Meerut)

M/s Kiwi Technologies India Pvt. Ltd. **Appellant**

Vs.

Commissioner of Central Excise & S.T., Meerut-I **Respondent**

Appearance:

None, for Appellant
Shri Mohammad Altaf, Assistant Commissioner (AR), for Respondent

CORAM:

Hon'ble Mr. Ashok Jindal, Member (Judicial)

Date of Hearing : 07/09/2017
Date of Decision : 07/09/2017

FINAL ORDER NO - 70962/2017........

Per: Ashok Jindal

The appellant is in appeal against the impugned order wherein their refund claim filed under Rule 5 of Cenvat Credit Rules, 2004 was rejected, on the ground that services in question is not an input service as per Rule 2 (l) of Cenvat Credit Rules, 2004.

3. None appeared on behalf of the appellant nor any request for adjournment has been received and records have been perused. On perusal of records, the appeal is taken up for decision.

Ashok Jindal

4. Heard the learned A.R. for revenue and perused the case records.

5. I find that in this case refund claim filed by the appellant under Rule 5 of Cenvat Credit Rules, 2004 under Notification No.27/2012-CE(NT) dated 18.06.2012 have been rejected on the ground that Cenvat credit have been availed by the appellant on the service which is not an input service under Rule 2(l) of Cenvat Credit Rules, 2004. I find that the availment of services has not been disputed at the time of availment of service, in these circumstances, at the time if claiming refund, it cannot be disputed and the refund claim cannot be rejected on the ground that the refund claim has been filed for the service is not input service. Therefore, I do not find any merit in the impugned order for rejection of their refund claim on this ground.

6. In these circumstances, the impugned order of rejection of refund claim is set aside. In result, the appeal is allowed.

(Dictated in Court)

Sd/-

(Ashok Jindal)

Member(Judicial)

प्रमाणित प्रति/Certified True Copy
25/09/18

सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण/(C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001

akp