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: 19/09/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71088/2017-SM[BR] dated 14/09/2017

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/70890/2016	**Commissioner CUSTOMS Central EXCISE and SERVICE TAX-Noida** C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH 201307
		Name and Address of Respondent
2		State Street Hcl Services (india) Pvt Ltd A-11,sector-16,, NOIDA ,UP

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Copy To

3Advocate(s) / Consultant(s):

V. Lakshmi Kumaran, 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. II

APPEAL No.ST/70890/2016-ST[SM]

(Arising out of Order-in-Appeal No.NOI/SVTAX/000/APPEALS-I/621/2015-16 dated 31/03/2016 passed by Commissioner of Central Excise, (Appeals-I) Meerut)

Commissioner of Customs, C.E. & S.T., Noida **Appellant**

Vs.

M/s State Street HCL Sevices (India) Pvt. Ltd. **Respondent**

Appearance:

Shri Gyanendra Tripathi, Assistant Commissioner (AR), for Appellant
Shri Utkarsh Malviya, Advocate, for Respondent

CORAM:

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

Date of Hearing : 14/09/2017
Date of Decision : 14/09/2017

FINAL ORDER NO 71088/2017

Per: Ashok Jindal

Revenue is in appeal against the impugned order wherein refund claim filed by the respondent has been allowed by learned Commissioner (Appeals).

2. The brief facts of the case are that the respondent is a provider of output service and the respondent filed refund claim under Rule 5 of Cenvat Credit Rules, 2004 read with Notification No.27/2004-CE(NT) dated 18.06.2012 for Cenvat credit lying unutilized in their cenvat account due to export of services. The refund claim was rejected by the adjudicating authority on the

Ashok Jindal

adjudicating authority on the terms that the respondent is not entitled to avail Cenvat credit for the services received by the respondent, as the invoices are not in the name of the respondent the address of respondent is not mentioned on the invoices. The said order was challenged before the learned Commissioner (Appeals), who has allowed the refund claim. Aggrieved from the said order, revenue is before me.

3. Learned A.R. for Revenue submits that as the invoices on which the respondent has taken Cenvat credit were in the name of other Head office and not addressed to them, therefore, in terms of Rule 4A of Service Tax Rules, 1994, the respondent is not entitled to avail Cenvat credit, consequentially they are not entitled to claim the refund on those services.

4. On the other hand, learned Counsel for the Respondent opposes the contention of learned A.R. and submits that in this case, no show cause notice was issued to them to deny Cenvat credit on the services in question availed by the respondent. Therefore, at the stage of filing of refund claim the availment of Cenvat credit on the services in question cannot be disputed. He further relied on the decision of this Tribunal in the case

of Freescale Semiconductors India Pvt. Ltd. Final Order No.A/70385/2017-EX(DB) dated 10.04.2017.

5. Heard the parties and considered the submissions.

6. In this case, I find that at the time of availment of Cenvat credit, the same has not been disputed, therefore, the refund claim also cannot be denied now. Further, this case is covered by the earlier decision of this Tribunal in the case of M/s Freescale Semicondutors India Pvt. Ltd. (supra). In these circumstances, I do not find any merits in the arguments advanced by the learned A.R. for Revenue. Therefore, I do not find any infirmity in the impugned order and the same is upheld.

7. In result, the appeal filed by Revenue is dismissed.

(Dictated in Court)

Sd/-

(Ashok Jindal)

Member(Judicial)

प्रमाणित प्रति/Certified True Copy
29/09/17

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

akp