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: 23/02/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70353/2018-SM[BR] dated 07/02/2018

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the Central Excise and Salt Act, 1944.

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/70063/2016	**Poonam Steels** Road No.-5,amousi Industrial Area,nadarganj LUCKNOW UP
		Name and Address of Respondent
2		C.C.E. & S.T.-Lucknow 7-A...ASHOK MARG, LUCKNOW, UTTAR PRADESH-226001

Copy To

3Advocate(s) / Consultant(s):

S. P. Ojha
299, Baghambari Housing Scheme, Allahpur,
Allahabad,
Uttar Pradesh

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, Opp ICICI Bank of Defence Colony 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 Second Folder Copy 17 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. E/70063/2016-EX[SM]
(Arising out of Order-in-Appeal No. 437-CE/APPL-LKO/LKO/2015 dated 10/11/2015 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Lucknow)

M/s Poonam Steels **Appellant**

Vs.

Commissioner of Central Excise, Lucknow **Respondent**

Appearance:

Shri S. P. Ojha, Consultant, for Appellant
Shri Sandeep Kumar Singh, Deputy Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing & Date of Decision : 07/02/2018

FINAL ORDER NO. 70353/2018

Per: Anil G. Shakkarwar

The present appeal is arising out of Order-in-Appeal No. 437-CE/APPL-LKO/LKO/2015 dated 10/11/2015 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Lucknow.

2. The brief facts of the case are that the appellants were engaged in the manufacture and clearance of M. S. Bars & M. S. Flats falling under Chapter 72 of the first Schedule of Central Excise Tariff Act, 1985. They were also availing Cenvat credit on inputs such as M. S. Scrap used in the manufacture of finished goods. On 17/12/2012 the appellants had crossed the SSI Exemption limit provided for in the Notification No. 08/2003-CE dated 01/03/2003 and

started paying duty on clearances of finished goods. The appellants had paid Central Excise duty for the period from 17/12/2012 to 31/03/2013 and again opted for SSI Exemption under the same notification with effect from 01/04/2013. It appeared to Revenue that in terms of Sub-rule (3) of Rule 11 of Cenvat Credit Rules, 2004, appellants were required to reverse Cenvat credit of Rs.6,07,186/- which was contained in closing balance of 365.219 MT finished goods. Therefore, with such a proposal a Show Cause Notice was issued on 06/03/2014. On contest the said Show Cause Notice was adjudicated through Order-in-Original dated 26/03/2015, through which the said demand was confirmed and equal penalty was imposed. Aggrieved by the said order, appellant preferred appeal before Commissioner (Appeals). The ld. Commissioner (Appeals) decided the appeal through Order-in-Appeal, wherein he has held that the order passed by the Original Authority on the issue of confirmation of demand of Rs.6,07,186/- as tenable in law. He also upheld the interest on the same. However, he reduced the penalty from Rs.6,07,186/- to Rs.3,00,000/-. Aggrieved by the said order, appellant preferred present appeal before this Tribunal.

3. Heard the ld. Counsel for the appellant. He has submitted that 365.219 MT of finished goods lying in stock on 31/03/2013 were manufactured from such raw material on which Cenvat credit was not taken.

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

5. Having gone through the submissions made by both the sides, I find through record that during the period from 17/12/2012 to 31/03/2013, 185.46 MT of M. S. Scrap was procured and it is obvious that out of 185.46 MT of M. S. Scrap, 365.219 M.T. of finished goods cannot be manufactured. Therefore, it is very clear that 365.219 M.T. of finished goods containing such inputs which were procured before 17/12/2012. It is clear that under Sub-rule (2) of Rule 11 of Cenvat Credit Rules, 2004, Cenvat credit contained in inputs which were lying in stock as on 17/12/2012 was reversed. However, Cenvat credit contained in inputs which have procured from 17/12/2012 and which have gone into manufacture of finished goods lying in the stock as on 31/03/2013 was required to be recovered under Sub-rule (3) of Rule 11 of Cenvat Credit Rules, 2004. Therefore, I do not find any infirmity with the order passed by the ld. Commissioner (Appeals). I, therefore, dismissed the appeal filed by the appellant.

(Dictated in Court)

Sd/-

ANIL G. SHAKKARWAR

(MEMBER TECHNICAL)

Ansari

प्रमाणित प्रति/Certified True Copy

30/03/18

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