F : 0532-2400149

REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 22/01/2018

To
Appellant as per address in table below
Respondent as per address in table below

Final Order No. ST/A/70201-70203/2018-CU[DB] dated 15/01/2018

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/684/2012	**Merino Industries Limited** Vill-Achcheja, Delhi Hapur Road, Hapur, Panchsheel Nagar(up)
2	ST/1789/2012	**Merino Industries Limited** Vill- Achcheja, Delhi-Hapur Road, Hapur, Panchsheel Nagar(up)
3	ST/1790/2012	**Merino Industries Limited** Vill- Achcheja, Delhi-Hapur Road, Hapur, Panchsheel Nagar(up)

	Name and Address of Respondent
4	C.C.E. & S.T.-Meerut-i EXCISE CHOWK...UNIVERSITY ROAD,MANGAL PANDEY NAGAR, MEERUT, (UP) - 250005
5	C.C.E. & S.T.-Meerut-i EXCISE CHOWK...UNIVERSITY ROAD,MANGAL PANDEY NAGAR, MEERUT, (UP) -250005
6	C.C.E. & S.T.-Meerut-ii OPPOSITE SHAHEED SMARAK,DELHI ROAD:..BHANSALI GROUND, MEERUT, (UP)

Other Appellants and Respondents as per Annexure

Copy To

7Advocate(s) / Consultant(s):

S.SUNIL ADVOCATE
46, BANK ENCAVE, DELHI-
110092

8 Bar Association, CESTAT, Allahabad

9 Director Publications, Customs, Excise. I.P. Estate, Delhi

10 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg. Opp ICICI Bank of Defence Colony New Delhi-3

11 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

12 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road. New Delhi-110005

13 LAWCRUX Advisors Pvt. Ltd., LAW House. 1-8, Sector-10, Faridabad 121003 (Haryana)

14 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

15 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

16 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

17 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

18 C.D.R. 19 Office Copy 20 Second Folder Copy 21 Guard File

Asstt. Registrar

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

APPEAL No. ST/684 & 1789-1790/2012-CU[DB]

Sr.	Appeal No.	Order-in-Appeal No.
1	ST/684/2012	51-ST/MRT-II/2012 dated 29.02.2012 passed by Commissioner of Customs & Central Excise (Appeals), Meerut-II
2	ST/1789-1790/2012	100-101-ST/MRT-II/2012 dated 30.04.2012 passed by Commissioner of Customs & Central Excise (Appeals), Meerut-II

M/s Merino Industries Limited **Appellant**

Vs.

Commissioner of Central Excise, Customs & Service Tax, Meerut-II **Respondent**

Appearance:

Shri S. Sunil, Advocate, for Appellant
Shri Pradeep Kumar Dubey, Superintendent (AR), for Respondent

CORAM:

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

Date of Hearing & Date of Decision : 15/01/2018

FINAL ORDER NO. 70201-70203/2018

Per: Ashok Jindal

The appellant filed these appeals against the impugned orders, wherein refund of Service Tax paid on Port Services as denied by the Adjudicating Authority on the ground that various services namely; Handling, Stevedoring, Loading, Unloading, Tug Hire & Labour Arrangement, etc. availed by them do not covered under "Port Services", therefore, they are not entitled to claim refund of the said services under "Port Services". It was also held in impugned order that part of the refund claim for the other services held entitled to the

Ashok

appellant, the refund amount is to be adjusted against the duty demand confirmed vide Order-in-Original No. 184-185/AC/HPR/2010 dated 12/06/2009.

2. Heard the parties and considering the fact that the services in question, the refund has already been allowed by this Tribunal fide Final Order No. 70360-70361/2017 dated 30/03/2017. Therefore, we hold that the appellant are entitled to claim refund of Service Tax of the services in question under "Port Services".

3. We, further, find that the part of the refund claim which has been allowed by way of impugned order but adjusted against the demand in Order-in-Original No. 184-185/AC/HPR/2010 dated 12/06/2009. The said order has already been set aside by this Tribunal vide Final Order No. 70463-70464/2017 dated 25/04/2017. Therefore, we hold that the refund amount is not to be adjusted by the authorities below as the duty demand had already been set aside. In these terms, we set aside the impugned orders.

4. In result, we allow the appeals with consequential relief to the appellant.

(Dictated in Court)

Sd/-

Anil G. SHAKKARWAR

(MEMBER TECHNICAL)

Sd/-

ASHOK JINDAL

(MEMBER JUDICIAL)

Ansari

प्रमाणित प्रति/Certified True Copy

16/02/18

(C.E.S.T.A.T.)

S. MARG, ALLAHABAD-211001