

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. ST/A/70383/2018-CU[DB] dated 24/01/2018

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/817/2010	BIRLA CORPORATION LTD. (CEMENT DIVISION) UPSIDC Indl. Area, Phase-II, Amawan Road, Raebarelli.
		Name and Address of Respondent
2		-C.C.E. LUCKNOW 7-A, Ashok Marg, Lucknow.

Copy To

3 Advocate(s) / Consultant(s):

**BIPIN GARG & CO.
ADVOCATES(ALLD)
102, MAHALAXMI ENCLAVE (ADJ.
INCOME TAX OFFICE), STANLEY
ROAD, CIVIL LINES, ALLAHABAD
(U.P.)-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, Opp ICICI Bank of Defence Colony New Delhi-3

7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaidhyaram 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, I-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. ST/817/2010-CU[DB]

(Arising out of Order-in-Original No. 08/Commissioner/LKO/ST/2010
dated 26/02/2010 passed by Commissioner of Central Excise, Lucknow)

M/s Birla Corporation Ltd. (Cement Division)

Appellant

Vs.

Commissioner of Central Excise, Lucknow

Respondent

Appearance:

Shri Bipin Garg (Advocate)

for Appellant

Shri Rajeev Ranjan (Joint Commr.) AR

for Respondent

CORAM:

Hon'ble Mr. Anil Choudhary, Member (Judicial)

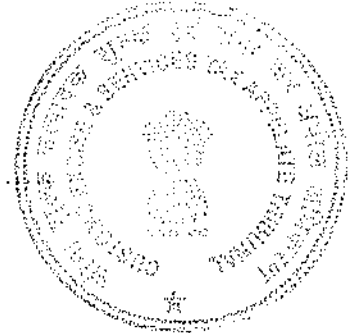
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 24/01/2018

Date of Decision : 24/01/2018

FINAL ORDER NO. — 70383/2018

Per: Anil G. Shakkarwar



The present appeal is arising out of Order-in-Original
No. 08/Commissioner/LKO/ST/2010 dated 26/02/2010
passed by Commissioner of Central Excise, Lucknow.

2. Heard the parties.

3. The short issue involved in the present appeal is
whether the appellant is entitled to avail Cenvat credit in
respect of Service Tax paid on outward freight i.e. freight paid

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for transportation of finished goods from their factory to the place of delivery where the obligation of the appellant is to deliver the goods FOR destination. We find that the issue is no more *res integra* in view of this Tribunal's decision in appellant's own case reported at 2016 (45) S.T.R. 103 (Tri.-All.) and also in appellant's another unit decided through Final Order No. 51923/2017-EX[DB] wherein it was held that in the light of decision of Madras Cements Ltd. reported at 2015 (40) S.T.R. 645 (Kar.), the goods when supplied by appellant on FOR basis to the buyer's place and included the value of transportation in the assessable value of the goods, the appellant is entitled to avail Cenvat credit of Service Tax paid on outward transportation of the finished goods.

4. Accordingly, by following the precedent decision of this Tribunal, we allow the appeal filed by appellant and set aside the impugned Order-in-Original dated 26/02/2010. The appellant shall be entitled for consequential relief, as per law.

(Dictated & Pronounced in Court)

-Sd/-

(ANIL CHOUDHARY)
Member (JUDICIAL)

-Sd/-

(ANIL G. SHAKKARWAR)
Member (TECHNICAL)

Lks

प्रमाणित प्रतः Certified True Copy
13/03/18
राजेश्वर भोसले/Asstt Registrar
सी.एस.टी., आयात/रिपोर्ट एवं सेवा कर
अपील अधिकरण(C.E.S.T.A.T.)
38, एन.जी.मार्ग, इलाहाबाद-211001
38, N. G. MARG, ALLAHABAD-211001

