CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-SM

COURT –III

Excise Appeal No.E/51524/14-EX [SM]

[Arising out of Order-in-Appeal No.IND-CEX-000-APP – 186 - 2013 dated 28.11.2013 passed by the Commissioner (Appeals), Customs, Central Excise and Service Tax, Indore]

For approval and signature:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

1	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3	Whether Their Lordships wish to see the fair copy of the Order?	
4	Whether Order is to be circulated to the Departmental authorities?	

CCE, Indore …Appellant

Vs.

Kanoria Sugar & Genl. Manufacturing Co. Ltd. … Respondent

Present for the Appellant : Mr..M.R. Sharma, D.R.
Present for the Respondent: Ms. Aastha Gupta, C.A.

Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

Date of Hearing/Decision: 30.03.2016

FINAL ORDER NO. __56435/2016__

PER: S.K. MOHANTY

Head both sides and perused the records.

2. Revenue is in appeal against the impugned order dated **10.12.2013** passed by the Commissioner (Appeals), Customs, Central Excise and Service Tax, Indore. The issue involved in this case relates to taking of cenvat credit of service tax paid on outward freight charges. I find that upon verification of the documents produced by the respondent herein, the ld. Commissioner (Appeals) has recorded the specific findings that the goods were delivered by the respondent at the customers premises and till such time, the ownership/title of the goods remained with the respondent. The relevant paragraph in the impugned order is extracted herein below:-

> *"5.9 It is clear that the cost of the transportation of the goods from the factory of the appellant is included in the price of the final product and is not being charged separately from the customers. The terms of delivery are on "door delivery basis" and the property shall pass to the customers upon delivery of the goods at the premises of the customer. The loss or damage during the transit is also born by the appellant. All these factors show that the transportation was undertaken by the appellant for delivering the goods at the customer' premises and till that time the goods remained under the ownership of the appellant."*

3. In view of the fact that the ownership / title of the goods were passed on by the respondent at its buyer's end, I am of

the considered view that the service tax paid on freight charges should be allowed for cenvat benefit. Thus, I do not find any infirmity in the impugned order and accordingly, dismiss the appeal filed by the Reveue.

[Dictated and Pronounced in the Open Court]

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita