

रजिस्टर्ड डाक ए.डी. द्वारा

: आयुक्त (अपील -I) का कार्यालय, केन्द्रीय उत्पाद शुल्क, :
: सैन्टल एक्साइज भवन, सातवीं मंजिल, पौलिटैक्नीक के पास, :
: आंबावाडी, अहमदाबाद- 380015. :

क फाइल संख्या : File No : V2(39)81/Ahd-III/2016-17/Appeal-I

ख अपील आदेश संख्या : Order-In-Appeal No.: AHM-EXCUS-003-APP-002-17-18

दिनांक Date : 15.05.2017 जारी करने की तारीख Date of Issue 22/5/18

श्री उमाशंकर आयुक्त (अपील-I) द्वारा पारित

Passed by Shri Uma Shanker Commissioner (Appeals-I) Ahmedabad

ग _____ आयुक्त, केन्द्रीय उत्पाद शुल्क, अहमदाबाद-I आयुक्तालय द्वारा जारी मूल
आदेश सं _____ दिनांक : _____ से सृजित

Arising out of Order-in-Original: AHM-CEX-003-ADC-DSN-018-16-17 Date: 19.09.2016
Issued by: Additional Commissioner, Central Excise, Din: Kadi, A'bad-III.

घ अपीलकर्ता एवं प्रतिवादी का नाम एवं पता

Name & Address of the Appellant & Respondent

M/s. Veer Plastic Pvt. Ltd. (Previously Known as M/s Karan Synthetic Pvt. Ltd.)

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील या पुनरीक्षण आवेदन प्रस्तुत कर सकता है।

Any person aggrieved by this Order-In-Appeal may file an appeal or revision application, as the one may be against such order, to the appropriate authority in the following way :

भारत सरकार का पुनरीक्षण आवेदन :

Revision application to Government of India :

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अंतर्गत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परन्तुक के अंतर्गत पुनरीक्षण आवेदन अवर सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली : 110001 को की जानी चाहिए।

(i) A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi - 110 001 under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid :

(ii) यदि माल की हानि के मामले में जब ऐसी हानि कारखाने से किसी भण्डागार या अन्य कारखाने में या किसी भण्डागार से दूसरे भण्डागार में माल ले जाते हुए मार्ग में, या किसी भण्डागार या भण्डार में चाहे वह किसी कारखाने में या किसी भण्डागार में हो माल की प्रक्रिया के दौरान हुई हो।

(ii) In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse.

(ख) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।

(b) In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.

(ग) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।

(c) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.



ध अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो ड्यूटी क्रेडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त, अधिनियम (नं.2) 1998 धारा 109 द्वारा नियुक्त किए गए हो।

(d) Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under and such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec.109 of the Finance (No.2) Act, 1998.

(1) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ. का मुख्यशीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

(2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35- षोबी/35-इ के अंतर्गत:-

Under Section 35B/ 35E of CEA, 1944 an appeal lies to :-

(क) वर्गीकरण मूल्यांकन से संबंधित सभी मामले सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण की विशेष पीठिका वेस्ट ब्लॉक नं. 3. आर. के. पुरम, नई दिल्ली को एवं

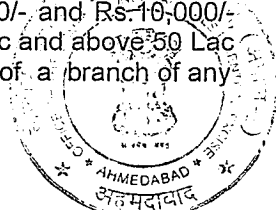
(a) the special bench of Custom, Excise & Service Tax Appellate Tribunal of West Block No.2, R.K. Puram, New Delhi-1 in all matters relating to classification valuation and.

(ख) उक्तलिखित परिच्छेद 2 (1) क में बताए अनुसार के अलावा की अपील, अपीलो के मामले में सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में ओ-20, न्यू मेटल हास्पिटल कम्पाउण्ड, मेघानी नगर, अहमदाबाद-380016.

(b) To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at O-20, New Metal Hospital Compound, Meghani Nagar, Ahmedabad : 380 016. in case of appeals other than as mentioned in para-2(i) (a) above.

(2) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 की धारा 6 के अंतर्गत प्रपत्र इ.ए-3 में निर्धारित किए अनुसार अपीलीय न्यायाधिकरणों की गई अपील के विरुद्ध अपील किए गए आदेश की चार प्रतियाँ सहित जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग और लगाया गया जुर्माना रुपए 5 लाख या उससे कम है वहां रुपए 1000/- फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग और लगाया गया जुर्माना रुपए 5 लाख या 50 लाख तक हो तो रुपए 5000/- फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग और लगाया गया जुर्माना रुपए 50 लाख या उससे ज्यादा है वहां रुपए 10000/- फीस भेजनी होगी। की फीस सहायक रजिस्टार के नाम से रेखांकित बैंक ड्राफ्ट के रुप में संबंध की जाये। यह ड्राफ्ट उस स्थान के किसी नामित सार्वजनिक क्षेत्र के बैंक की शाखा का हो

The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of Central Excise(Appeal) Rules, 2001 and shall be accompanied against (one which at least should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asstt. Registrar of a branch of any



nominate public sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated

(3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढ़ी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner notwithstanding the fact that the one appeal to the Appellant Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

(4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूचि-1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रु.6.50 पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

One copy of application or O.I.O. as the case may be, and the order of the adjournment authority shall bear a court fee stamp of Rs.6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

(5) इन ओर संबंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्याविधि) नियम, 1982 में निहित है।

Attention is invited to the rules covering these and other related matter contended in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

(6) सीमा शुल्क, केन्द्रीय उत्पाद शुल्क एवं सेवाकर अपीलीय प्राधिकरण (सीस्तेत) के प्रति अपीलों के मामलों में केन्द्रीय उत्पाद शुल्क अधिनियम, 1984 की धारा 34फ के अंतर्गत वित्तीय(संख्या-2) अधिनियम 2014(2014 की संख्या 29) दिनांक: 06.08.2014 जो की वित्तीय अधिनियम, 1994 की धारा 63 के अंतर्गत सेवाकर को भी लागू की गई है, द्वारा निश्चित की गई पूर्व-राशि जमा करना अनिवार्य है, बशर्ते कि इस धारा के अंतर्गत जमा की जाने वाली अपेक्षित देय राशि दस करोड़ रुपये से अधिक न हो

केन्द्रीय उत्पाद शुल्क एवं सेवाकर के अंतर्गत "माँग किए गए शुल्क" में निम्न शामिल है

- (i) धारा 11 डी के अंतर्गत निर्धारित रकम
- (ii) सेनवैट जमा की ली गई गलत राशि
- (iii) सेनवैट जमा नियमावली के नियम 6 के अंतर्गत देय रकम

→ आगे बशर्ते यह कि इस धारा के प्रावधान वित्तीय (सं. 2) अधिनियम, 2014 के आरम्भ से पूर्व किसी अपीलीय प्राधिकारी के समक्ष विचाराधीन स्थगन अर्ज़ी एवं अपील को लागू नहीं होंगे।

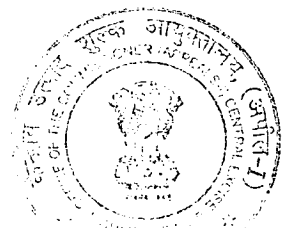
For an appeal to be filed before the CESTAT, it is mandatory to pre-deposit an amount specified under the Finance (No. 2) Act, 2014 (No. 25 of 2014) dated 06.08.2014, under section 35F of the Central Excise Act, 1944 which is also made applicable to Service Tax under section 83 of the Finance Act, 1994 provided the amount of pre-deposit payable would be subject to ceiling of Rs. Ten Crores,
Under Central Excise and Service Tax, "Duty demanded" shall include:

- (i) amount determined under Section 11 D;
- (ii) amount of erroneous Cenvat Credit taken;
- (iii) amount payable under Rule 6 of the Cenvat Credit Rules.

→ Provided further that the provisions of this Section shall not apply to the stay application and appeals pending before any appellate authority prior to the commencement of the Finance (No.2) Act, 2014.

(6)(i) इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो माँग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।

(6)(i) In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute."



ORDER-IN-APPEAL

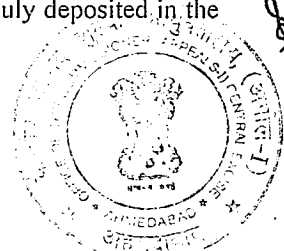
This appeal is filed by M/s. M/s. Veer Plastics Private Limited, [earlier known as Karan Synthetic (India) Private Limited], 7/4, GIDC Estate, Kadi, Tal. Kadi, District Mehsana – 382 715 (for short “appellant”) against OIO No. A-HM-CEX-003-ADC-DSN-18-16-17 dated 19.9.2016 passed by the Additional Commissioner, Central Excise, Ahmedabad-III Commissionerate[for short – ‘adjudicating authority’].

2. The facts briefly are that based on a CERA objection a show cause notice dated 28.3.2016 was issued to the appellant, *inter alia*, alleging that they had wrongly availed CENVAT credit against 31 invoices issued by M/s. Kwaliti Enterprises as the invoices on which credit was availed were shoddily prepared; that they did not contain the necessary details as per Rule 4(A) of the Service Tax Rules, 1994; that there were various other mistakes and shortcomings in the said invoices and hence in terms of Rule 9(2) of the CENVAT Credit Rules, 2004 [for short CCR ‘04] the credit was held to be wrongly availed. The total CENVAT credit involved was Rs. 10,10,562/-. The show cause notice therefore, demanded the CENVAT credit wrongly availed along with interest and further proposed penalty on the appellant under Rule 15(2) of CCR ‘04 read with Section 11AC of the Central Excise Act, 1944.

3. Vide impugned OIO dated 29.3.2016, *supra*, the adjudicating authority disallowed the CENVAT credit and ordered payment of interest. He also imposed penalty on the appellant. It is against this order that the present appeal is filed.

4. The grounds raised in the appeal are that:-

- (a) the adjudicating authority has erroneously confirmed the demand without complying with the provisions of Rule 9(2) of the CENVAT Credit Rules, 2004;
- (b) the minor clerical omissions and typographical errors in the invoices cannot be the ground for rejecting the CENVAT credit especially when the invoices contain name of the service provider, name of the service recipient, date of issuance of invoice and amount of service tax;
- (c) the appellant has absolutely no liability to produce books of account of the service provider to establish that the amount of service tax was deposited to the government exchequer and it is also not a requirement under rule 9(2) of the CCR ‘04;
- (d) the departmental authorities could have easily verified the books of account of the service provider and their own records to ascertain the aspect whether the invoice provider has deposited the tax collected from the appellant;
- (e) the appellant is enclosing a certificate issued by the service provider clarifying that these invoices are issued by them and that service tax liability is discharged on the said invoices;
- (f) that they would like to rely on the case of Sandvik Asia [2014(36) STR 428], Dhanvridhi Commercial P Limited [2013(287) ELT 463]; Meghmani Organics Limited [2016(42) STR 81], Shivraj Cable Network [2015(39) STR 670], Verizon Data Services India Private Limited [2015(39) STR 522];
- (g) that Rule 4A of the Service Tax Rules, 1994 does not impose any restriction on the appellant that only pre printed serially numbered invoices are eligible for credit;
- (h) that the adjudicating authority could not have denied CENVAT credit on these invoices in question because the copy of challans submitted by the appellant shows that the service tax payment was made by the service provider and it was duly deposited in the Government exchequer on a regular basis;



- (i) adjudicating authority has committed error in upholding invocation of extended period of limitation though there was no specific allegation of suppression of facts or wilful mis statement etc;
- (j) that extended period is not invocable;
- (k) that no penalty can be imposed in this case.

5. Personal hearing in the matter was held on 21.3.2017. Ms. Shilpa Dave, Advocate, appeared on behalf of the appellant and reiterated the grounds raised in the appeals. She further submitted a notarised detail of all the bills on which CENVAT credit was taken. She also provided a copy of the citations relied upon by the appellant.

6. I have gone through the facts of the case, the grounds mentioned in the appeal and the oral averments, raised during the course of personal hearing. The main issue to be decided is whether as alleged by the department, the appellant has wrongly availed CENVAT credit or otherwise.

7. Looking into the facts, I find that the disputed CENVAT credit is in respect of input service availed on 31 invoices issued by M/s. Kwaliti Enterprises, who is engaged in the business of providing manpower recruitment/supply services. The CENVAT credit availment was questioned on the basis of discrepancy listed in para 2 of the show cause notice dated 28.3.2016. When summarized, the discrepancies are that 28 invoices were those wherein the proprietor's signature was missing; in 22 invoices bill nos. were handwritten; in 9 invoices, bill nos. were not mentioned and in 9 invoices the registration no. mentioned by the service provider were incorrect. The nos. when added up is more than 31 because some of the invoices had multiple discrepancies.

8. CENVAT credit on 'input services' as defined under Rule 2(l) of the CENVAT Credit Rules, 2004, clearly states that input service means any service used by a manufacturer in or in relation to the manufacture of final products and clearance of final products upto the place of removal. The basic conditions for availing CENVAT credit is that [a] there should be manufacture or provision of taxable output service; [b] input service should be utilized for manufacture of final product or provision of taxable output service; [c] that the final product/output service is taxable; and [d] that credit is available on the basis of specified documents.

9. In this case there is no allegation as far as points mentioned at [a] to [c] are concerned. The only dispute is in respect of point [d]. Further, the adjudicating authority has very clearly stated in para 44 of the impugned OIO that the registration of the service provider and eligibility of the particular service as input service are not in dispute. The adjudicating authority has disallowed the CENVAT credit on the grounds that:

- the discrepancy were not clerical error but gross abuse of the scheme of accounting and issue of invoices, substantive enough to deny the credit;



- that since the transaction were suspect the tax payment can not be verified;
- that none of the 31 documents for taking credit are proper documents and therefore the credit taken is not proper;
- on the question of proviso to Rule 9(2) of the CCR '04, the omissions and mistake including the absence of signature of the issuer on the documents are serious disqualification for considering such invoices as eligible for tax credit and it cannot be remedied; that such documents do not merit qualifying as documents eligible for taking credit mentioned under Rule 9(1) of the CCR '04;

10. The relevant extracts of Rule 9 of CCR '04, states as follows:

RULE 9. Documents and accounts. — (1) The CENVAT credit shall be taken by the manufacturer or the provider of output service or input service distributor, as the case may be, on the basis of any of the following documents, namely :-

(f) an invoice, a bill or challan issued by a provider of input service on or after the 10th day of September, 2004; or

(2) No CENVAT credit under sub-rule (1) shall be taken unless all the particulars as prescribed under the Central Excise Rules, 2002 or the Service Tax Rules, 1994, as the case may be, are contained in the said document :

Provided that if the said document does not contain all the particulars but contains the details of duty or service tax payable, description of the goods or taxable service, [assessable value, Central Excise or Service tax registration number of the person issuing the invoice, as the case may be,] name and address of the factory or warehouse or premises of first or second stage dealers or [provider of output service], and the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, is satisfied that the goods or services covered by the said document have been received and accounted for in the books of the account of the receiver, he may allow the CENVAT credit.]

(6) The manufacturer of final products or the provider of output service shall maintain proper records for the receipt and consumption of the input services in which the relevant information regarding the value, tax paid, CENVAT credit taken and utilized, the person from whom the input service has been procured is recorded and the burden of proof regarding the admissibility of the CENVAT credit shall lie upon the manufacturer or provider of output service taking such credit.

10.1 The relevant extracts of Rule 4A of the Service Tax Rules, 1994, states as follows :

RULE [4A. Taxable service to be provided or credit to be distributed on invoice, bill or challan. —

(1) Every person providing taxable service shall [, not later than [thirty days] from the date of [completion of] such taxable service or receipt of any payment towards the value of such taxable service, whichever is earlier.] issue an invoice, a bill or, as the case may be, a challan signed by such person or a person authorized by him [in respect of such taxable service] [provided or agreed to be provided] and such invoice, bill or, as the case may be, challan shall be serially numbered and shall contain the following, namely :-

- (i) the name, address and the registration number of such person;
- (ii) the name and address of the person receiving taxable service;
- [(iii) description and value of taxable service provided or agreed to be provided; and]
- (iv) the service tax payable thereon :

11. Rule 9(2) of CCR '04 read with Rule 4A of the Service Tax Rules, 1994 [relevant extracts of both reproduced *supra*], states that the invoice/bill should contain the name, address, registration number of the service provider, the name and address of the person receiving taxable service, the description and value of taxable service and the service tax payable thereon and that the invoice should be signed by the person providing taxable service or a person authorized by him.



12. The discrepancies found in the invoices are already summarized in para 7 *supra*. However, the appellant has relied upon the following case laws, to put forth his contention that the discrepancies pointed out by the department are only procedural and should not be held against him to deny the credit, viz.

[a] Dhanvridhi Commercial Private Limited [2013(287) ELT 463].

Cenvat credit - Duty paying documents - Invoices - Under Rule 11 of Cenvat Credit Rules, 2002 only requirement is that they should be serially numbered - There is no requirement that the invoice number should be printed on the invoice - On facts, as there was no dispute that invoices were not serially numbered, credit allowed on them - In that view, fact that some invoices had arbitrary serial numbers and invoice book did not have uniform pages, found to be immaterial - It was mere technical violation for which no show cause notice should have been issued - Rule 9 of Cenvat Credit Rules, 2004.

[b] Meghmani Organics Limited [2016(42) STR 81].

Cenvat credit - Document for availing credit - Denial of credit on the ground that certain documents not indicating registration number of service provider - Necessary certificates from jurisdictional Central Excise authorities showing registration number of the service provider subsequently produced by assessee - As per provisions contained in Rule 9(2) of Cenvat Credit Rules, 2004 if documents not containing all particulars but contains details of Service Tax paid, description of taxable services then same can be verified from jurisdictional Central Excise officers - Procedural irregularities ought not to be made basis for denying Cenvat credit - Credit admissible to assessee - Rule 9(2) of Cenvat Credit Rules, 2004.

[c] Shivraj Cable Network [2015(39) STR 670].

Cenvat credit - Documents for availing credit - Typographical and clerical error - Denial of credit for wrongly mentioning of service-recipient name in input service bill - Services received by assessee accounted for in books and payment for services made by assessee to service-provider established on basis of documents submitted - Therefore, case also covered under Rule 9(2) of Cenvat Credit Rules, 2004 - Assessee legally entitled for Cenvat credit on all subject invoices - Therefore, impugned order set aside - Rule 9 of Cenvat Credit Rules, 2004.

[d] Verizon Data Services India Private Limited [2015(39) STR 522]

Interpretation of statute - Cenvat credit - Procedural requirement for allowing credit under Cenvat Credit Rules, 2004 to be construed more liberally than exemption notification. [para 13]

[e] Hindustan Coca Cola Beverages Private Limited [2016(343) ELT 1016]

*Cenvat - Duty paying documents - Invoice not pre-printed but hand-written serially numbered - Requirement of pre-printed invoice not necessary under Central Excise Rules, 2002 - Rule 9(2) of Cenvat Credit Rules, 2004 prescribes that Cenvat credit not deniable on the grounds that any of the documents mentioned in sub-rule (1) of Rule 9 *ibid* does not contain all particulars required to be contained under these rules - Discrepancies, if any, can be verified from jurisdictional Central Excise Officer, having jurisdiction over supplier of inputs, to ensure duty paid nature of inputs - No case that duty paid inputs have not been received by appellants and further not utilized in manufacture of finished goods - Settled law is that credit not deniable for minor procedural lapses - Cenvat credit on basis of invoices having hand-written serial number cannot be denied - Rules 3 and 11(2) of Central Excise Rules, 2002.*

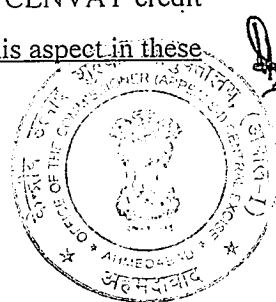
[f] Accurate Transformers Limited [2015(315) ELT 271]

Cenvat - Duty paying documents - Invoices received by input suppliers not duly signed by authorised representative - Said defect is rectifiable and in absence of any allegations that the appellants have not received the inputs, denial of credit on such technical and procedural aspect, not justified - Rule 9 of Cenvat Credit Rules, 2004.

[g] Kemwell Bhopharma Private Limited [2017(47) STR 70]

Cenvat credit - Duty paying documents - Discrepancies - Mere non-mentioning of registration number of service provider on invoices is only a procedural lapse with regard to duty paying documents - In absence of any evidence of services not having been received or utilized, substantive benefit of credit, not deniable for such procedural lapse - Rules 3 and 9 of Cenvat Credit Rules, 2004.

As has been held by the Hon'ble Tribunal in the case of Shivraj Cable Network, *supra*, the proper officer if he is satisfied that the goods or services covered by such documents have been received and accounted for in the books of account of the receiver, CENVAT credit can be allowed. I do not find that the adjudicating authority has doubted this aspect in these



transactions. The Tribunal in a series of judgments, listed above has allowed the discrepancies [most of which are common to the one pointed out against the appellant].

13. However, I find that the adjudicating authority has raised doubt about the invoices being accounted for payment of service tax by the service provider. This aspect, it is felt could have been verified by the adjudicating authority.

14. In view of the foregoing, I find that the impugned order dated 19.9.2016, disallowing the CENVAT Credit, cannot be upheld. However, since the adjudicating authority has raised doubts about payment of tax by the service provider, the matter is remanded back to the adjudicating authority to verify this angle and pass a speaking order after adhering to the provisions of natural justice.

15. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

15. The appeal filed by the appellant stands disposed of in above terms.

उमा शंकर

(उमा शंकर)

आयुक्त (अपील्स - I)

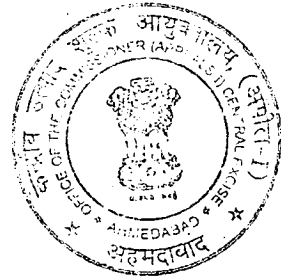
Date: 15/05/2017.

Attested

Vinod Lukose
(Vinod Lukose)
Superintendent (Appeal-I)
Central Excise, Ahmedabad.

BY R.P.A.D

M/s. Veer Plastics Private Limited,
[earlier known as Karan Synthetic (India) Private Limited],
7/4, GIDC Estate,
Kadi, Tal. Kadi,
District Mehsana - 382 715.



Copy to:-

1. The Chief Commissioner, Central Excise Zone, Ahmedabad.
2. The Commissioner, Central Excise, Ahmedabad-III
3. The Addl./Joint Commissioner, (Systems), Central Excise, Ahmedabad-III
4. The Dy. / Asstt. Commissioner, Central Excise, Division- Kadi, Ahmedabad-III
5. Guard file.
6. P.A