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(69)87/Ahd-III/2016-17/Appeal-I** / 4239 to 4243

ख अपील आदेश संख्या :Order-In-Appeal No.: **AHM-EXCUS-003-APP-038-17-18**

दिनाँक Date :**05.07.2017** जारी करने की तारीख Date of Issue: 17.07.17

श्री उमाशंकर आयुक्त (अपील-I) द्वारा पारित

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

ग _____ आयुक्त, केन्द्रीय उत्पाद शुल्क, अहमद बाद-III आयुक्तालय द्वारा जारी मूल आदेश सं _____ दिनाँक : _____ से सृजित

Arising out of Order-in-Original: **AHM-CEX-003-ADC-MSC-050-15-16** Date: **26.02.2016** Issued by: Additional Commissioner, Central Excise, Din: Kalol, A'bad-III.

ध अपीलकर्ता एवं प्रतिवादी का नाम एवं पता

Name & Address of the **Appellant** & Respondent

M/s. Murugappa Morgan Thermal Ceramics 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 प्रकिया के दौरान हुई हो।

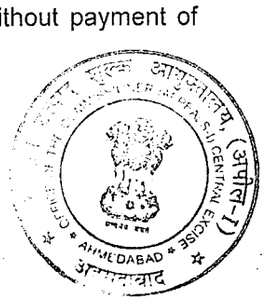
(ii) In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse.

(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 मामलें 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 डयूटी केडिट 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 दिनाँक 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 स्बूत 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 रूपये या उससे कम हो तो रूपये 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 nvolved is more than Rupees One Lac.

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

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35– ण्0बी/35–इ के अंतर्गतः–

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

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 मैन्टल हास्पिटल कम्पाउण्ड, मेघाणी नगर, अहमदाबाद–380016.

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 न्यायाधिकरणें की गई अपील के विरूद्व अपील किए गए आदेश की चार प्रतियाँ सहित जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग ओर लगाया गया जुर्माना रूपए 5 लाख या उससे कम है वहां रूपए 1000/– फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग ओर लगाया गया जुर्माना रूपए 5 लाख या 50 लाख तक हो तो रूपए 5000/– फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग ओर लगाया गया जुर्माना रूपए 50 लाख या उससे ज्यादा है वहां रूपए 10000/– फीस भेजनी होगी। की फीस सहायक रजिस्टार के नाम से रेखाकिंत बैंक ड्राफ्ट के रूप 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.',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. Registar 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 ओदश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय संरकार 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 not withstanding 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 रू.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 beer a court fee stamp of Rs.6.50 paisa 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 in 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, १९४४ की धारा ३५फ के अंतर्गत वित्तीय(संख्या-२) अधिनियम २०१४(२०१४ की संख्या २५) दिनांक: ०६.०८.२०१४ जो की वित्तीय अधिनियम, १९९४ की धारा ८३ 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 रूपए 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 होगे।

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

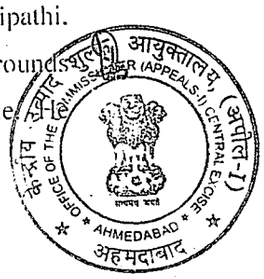
M/s. Murugappa Morgan Thermal Ceramics Ltd.. Plot No.681. Moti Bhoyan Village. Sanand-Kalol State Highway, Taluka-Kalol. Distri Gandhinagar (for short - '*appellant*") has filed this appeal against OIO No. AHM-CEX-003-ADC-MSC-050-15-16 dated 26.02.2016 (for short –"impugned order), passed by the Additional Commissioner. Central Excise. Ahmedabad–III (for short - '*adjudicating authority*").

2. Briefly, the facts are that a show cause notice dated 16.10.2014 was issued to the appellant, alleging that [i] they were engaged in exempted service viz. trading activity in addition to manufacturing goods falling under chapter 69 of Central Excise Tariff Act. 1985 and had availed CENVAT credit amounting to Rs.36.138/- for the period from October 2009 to March 2011 and Rs.10,98,701/- for the period from April 2011 to June 2014 in respect of common taxable services but had failed to maintain separate accounts as stipulated in Rule 6 of the CENAT Credit Rules, 2004 (CCR);. The said show cause notice was proposed for recovery of said wrongly availed Cenvat credit - in terms of Rule 6(3) of CCR for non maintenance of separate accounts for taxable and exempted service with interest and penalty. Vide the impugned OIO, the adjudicating authority decided the aforementioned show cause notice wherein he confirmed the demand along with interest and also imposed penalty under Section 11AC of the Central Excise Act, 1944 (CEA).

3. Feeling aggrieved, the appellant. has filed this appeal on the following grounds:

- Only the credit attributable to the exempted services to be reversed by virtue of Notification No.03/2011-CE dated 01.04.2011: that it is a legal settled position that when Cenvat credit availed is reversed. the same has to be treated as if it had not been taken.
- If the credit of certain inputs services was not admissible. in terms of the provisions of Cenvat Rules. then only that much credit is liable to be reversed which was attributable to such exempted service. but amount of 5% or 6% of the total value of such activities would not be justified and highly disproportionate and unreasonable.
- They were not aware about the fiction that exempted service includes trading activities also; that that upon realizing about the bonafide error. the credit had been paid back and controversy survived in this case; that recovery of Rs.10,98,701/- for a relatively small sum of Rs.1.75.192/- being Cenvat credit attributable to trading activity is wholly illegal and unjustified.
- The amount of Rs.36,138/- of the trading income for the period prior to March 2011demanded is not proper and legal and the explanation regarding inclusion of trading activity in the exempted category is effective from 31.03.2011
- Larger period of limitation cannot be invoked in the present case as there was no suppression of facts or concealment of information.
- They relied on various case laws in support of their above arguments.

4. Personal hearing in the matter was held on 17.05.2017. Shri Adiitya S Tripathi. Advocate, appeared on behalf of the appellant and reiterated the arguments made in the grounds of appeal. He further submitted that proportionate reversal of Cenvat Credit has been done. He also submitted copy of case laws relied on.



5. I have gone through the facts of the case, the appellant's grounds of appeal, and submissions made during the course of personal hearing. The issue to be decided is whether the demand of Rs.36,138/- and Rs.10,98,701/-for the period from October 2009 to March 2011 and April 2011 to June 2014 respectively, confirmed in terms of Rule 6 of CCR along with interest and penalty, is correct or otherwise.

6. The dispute as is evident revolves around Rule 6 of the CCR, which is extensively quoted in the show cause notice and the impugned order. The text of the rule is therefore, not re-produced. The adjudicating authority while confirming the demand has held that the appellant is involved in manufacture of excisable goods; that the appellant is also engaged in trading activities apart from manufacturing activities; that since the trading activities has been included under the definition of exempted service they had not maintained separate accounts for availing CENVAT credit in respect of common services for manufacturing and trading as required under the said rule; that the appellant has not followed the conditions and limitation laid down in the provisions of Rule 6(3) and 6(3A) of CCR which came to the knowledge of the department during the course of audit conducted by the department. As regards amount of Rs.36,138, involved prior to 31.03.2011, the adjudicating authority has held that only proportionate credit considering the ratio of trading sales to total turnover was disallowed and it is not a demand in terms of Rule 6(3) ibid.

7. I observe that Rule 6(1) of CCR, clearly states that CENVAT credit shall not be allowed on input service used in manufacture of exempted goods or provision of exempted services except in the circumstances mentioned in sub-rule(2). Rule 6(2), *ibid*, puts an obligation on a manufacturer who avails CENVAT credit in respect of inputs and input services, used in both dutiable and exempted final products, to maintain separate records. Rule 6(3), *ibid*, a non-obstante clause, gives a facility to a manufacturer, opting not to maintain separate accounts to either

[a] pay an amount of 6% of the value of exempted goods; or
[b] pay an amount as determined under rule 3A; or
[c] maintain separate accounts and take CENVAT credit as per conditions therein and thereafter, pay an amount as per sub rule 3A of CCR .

8. With effect from 31.03.2011, trading activities has been included under the definition of exempted service .The appellant argued that they were not aware about the fiction that exempted service includes trading activities also and upon realizing about the bonafide error, they had reversed the credit availed from 31.03.2011. They further argued that the demand of credit of Rs.36,138/- in dispute prior to 31.03.2011 is wrong as trading activities has been included in the exempted service with effect from 31.03.2011.

9. I observe from the above that there is not dispute from either side with respect to the activities carried out by the appellant. The appellant further contended that the demand cannot be more than the CENVAT Credit, availed; that if the credit of certain inputs services was not admissible, in terms of the provisions of Rule 6(3) of Cenvat Rules, then only the credit involved is liable to be reversed which was attributable to such exempted service, but amount of 5% or 6% of the total value of such activities would not be justified and highly disproportionate and unreasonable.

10. I observe that in view of amended provisions of Rule 6 (3) of CCR, the Joint Secretary (TRU) has issued a letter no. 334/8/2016-TRU dated 29.2.2016 which states that:

> *(h) Rule 6 of Cenvat Credit Rules, which provides for reversal of credit in respect of inputs and input services used in manufacture of exempted goods or for provision of exempted services, is being redrafted with the objective of simplifying and rationalizing the same without altering the established principles of reversal of such credit.*
>
> *(i) sub rule (1) of rule 6 is being amended to first state the existing principle that CENVAT credit shall not be allowed on such quantity of input and input services as is used in or in relation to manufacture of exempted goods and exempted service. The rule then directs that the procedure for calculation of credit not allowed is provided in sub-rules (2) and (3), for two different situations.*
>
> *(ii) sub-rule (2) of rule 6 is being amended to provide that a manufacturer who exclusively manufactures exempted goods for their clearance up to the place of removal or a service provider who exclusively provides exempted services shall pay (i.e. reverse) the entire credit and effectively not be eligible for credit of any inputs and input services used.*
>
> *(iii) sub-rule (3) of rule 6 is being amended to provide that when a manufacturer manufactures two classes of goods for clearance upto the place of removal, namely, exempted goods and final products excluding exempted goods or when a provider of output services provides two classes of services, namely exempted services and output services excluding exempted services, Page 33 of 38 then the manufacturer or the provider of the output service shall exercise one of the two options, namely, (a) pay an amount equal to six per cent of value of the exempted goods and seven per cent of value of the exempted services, subject to a maximum of the total credit taken or (b) pay an amount as determined under sub-rule (3A).*
>
> *(iv) The maximum limit prescribed in the first option would ensure that the amount to be paid does not exceed the total credit taken. The purpose of the rule is to deny credit of such part of the total credit taken, as is attributable to the exempted goods or exempted services and under no circumstances this part can be greater than the whole credit.*

However, this amendment reflects the interpretation and intent of the Government. In-fact Joint Secretary himself states that the rules are *being redrafted with the objective of simplifying and rationalizing the same without altering the established principles of reversal of such credit.* . Even otherwise to demand an amount under Rule 6 which is more than the CENVAT credit availed would clearly be against the spirit of reversal. Though the above referred amendment has made in a clarification nature and not specified any retrospective effect, the intent of the Government is very clear.

11. In view above, I hold that the activity carried out by the appellant is falling within the meaning of 'exempted service' as defined under Rule 2(e) of CCR. It is not under dispute that the appellant had availed Cenvat credit on input/input services which were used in relation to

both dutiable and exempted activity. Therefore, it was imperative on the appellant, to either, not take CENVAT credit in respect of input service used in trading activity or maintain separate accounts as per Rule 6(2), *ibid.* However, as is already mentioned, the appellant took CENVAT credit in respect of input service used in trading activity and also failed to maintain separate accounts. Therefore, the provisions of Rule 6 (3) of CCR clearly attracts in appellant's case. However, looking into the spirit of Board's circular as referred to above, I hold that the Cenvat credit demanded is not more than the credit availed. In the instant case, I observe that the demand for the entire period in dispute was raised on the basis of percentage of trading value. Therefore, the Cenvat credit availed on such exempted service is required to be determined. The appellant contended that they had reversed the credit amount of credit involved for the period from 31.03.2011 but they have not given any clarity regarding such reversal in the appeal. Further, the impugned order also does not speak anything in this regard. The appellant, in support of their arguments relied on Hon'ble Supreme Court's decision in the case of M/s Chandraput Magnet Wires (P) ltd [1996] (81) ELT 3 and Hon'ble High Court, Allahabad's decision in the case of M/s Hello Minerals Water (P) Ltd [2004 (174) ELT 422] which states that in case of reversal of credit, it cannot be said that the assessee has taken credit of duty paid on the inputs utilized the manufacture of the final products. I further, observe that the Hon'ble Tribunal, Mumbai in the case of M/s Hindustan Antibiotics Ltd[2016 (42) STR 387] and the Hon'ble Tribunal Hyderabad in the case of M/s Aster Pvt Ltd [2016 (43) STR 411] has allowed proportionate reversal of credit and held that the failure if any is only procedural lapse of not filing declaration of availing option..

12 In view of above discussion, I feel that this issue is required to be considered by the adjudicating authority for determining the Cenvat credit availed by the appellant on such exempted service, as such, I remand the issue to the adjudicating authority for considering the matter in view of above discussion.

13. As regards the contention of the appellant that the demand prior to 31.03.2011 is not sustainable as the trading activities has been included in exempted service only from 31.03.2011, I observe that, the Board vide Circular No. Circular No. 943/4/2011-CX. dated 29-4-2011 clarified that even prior to 2008, trading is an exempted service. In the backdrop, I do not find any merit in such argument.

14. The appellant's other contention is that the notice is barred by limitation. The adjudicating authority's justification for invoking extended period is that the appellant has contravened the provisions of Rule 6 and 2(l) of the CCR and has also suppressed facts with the intent to evade payment of duty. The appellant's contention is that there is no suppression of facts since it was known to the department as they have submitted all relevant records in the disputed period that they were engaged in both manufacturing and trading activity and were availing CENVAT credit in respect of trading /work contracts also. I observe that while

submitting the records during the disputed period before the authority, they had suppressed the relevant facts from the department, as such the demand for the said period is very well within the ambit of invoking extended period. In other words, show cause notice, covering the issue discussed above, can be issued till October 2014 by invoking extended period. In the circumstances, show cause notice dated 16.10.2014 issued, covering the said periods of October 2009 to June 2014, does not find any difference, and correctly issued.

14. I find that the adjudicating authority has imposed penalty under Section 11 AC of the Central Excise Act, 1944 in respect of amount liable to pay under Rule 6 (3) of CCR. The penalty imposed under the said Section is required to be modified as the demand of amount liable to pay under Rule 6(3) of CCR is modified, as discussed at para 11.

15. In this backdrop, I partially modify the impugned order. The appeal filed by the appellant stands disposed of in above terms (अपीलकर्ता द्वारा दर्ज की गई अपीलो का निपटारा उपरोक्त तरीके से किया जाता है।).

(उमा शंकर)
आयुक्त (अपील्स - I)
Date: 05/07/2017

Attested

(Mohanan V.V)
Superintendent (Appeals-I)
Central Excise, Ahmedabad

By R.P.A.D
To
M/s. Murugappa Morgan Thermal Ceramics Ltd.,
Plot No.681, Moti Bhoyan Village,
Sanand-Kalol State Highway, Taluka-Kalol, Distri Gandhinagar

Copy to:-

1. The Chief Commissioner, Central Excise, Ahmedabad Zone.
2. The Principal Commissioner, Central Excise, Ahmedabad-III
3. The Deputy/Assistant Commissioner, Central Excise, Gandhinagar Ahmedabad-III.
4. The Assistant Commissioner, System-Ahmedabad-III
5. Guard File.
6. P.A. File.

केन्द्रीय उत्पाद शुल्क आयुक्तालय, (अपील-I) OFFICE OF THE COMMISSIONER (APPEALS) CENTRAL EXCISE AHMEDABAD