केंद्रीय कर आयुक्त (अपील)

O/O THE COMMISSIONER (APPEALS), CENTRAL TAX,

101 सत्यमेव जयते

केंद्रीय उत्पाद शुल्क भवन,
सातवीं मंजिल, पोलिटेकनिक के पास,
आम्बावाडी, अहमदाबाद-380015

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रजिस्टर डाक ए .डी .द्वारा

क फाइल संख्या (File No.) : **V2(ST)1012/A-II/ 2016-17** /142 to 148
स्थगन आवेदन संख्या(Stay App. No.):

ख अपील आदेश संख्या (Order-In-Appeal No.): **AHM-EXCUS-002-APP- 34-17-18**
दिनांक (Date): **27/07/2017**, जारी करने की तारीख (Date of issue): 24/08/17
श्री उमा शंकर, आयुक्त (अपील-II) द्वारा पारित
Passed by **Shri Uma Shanker** , Commissioner (Appeals)

ग _____ आयुक्त, केंद्रीय उत्पाद शुल्क, (मंडल-IV), अहमदाबाद, आयुक्तालय द्वारा जारी मूल आदेश सं---------- दिनांक _----------से सृजित
Arising out of Order-In-Original No. SD-04/Ref-05/AK/2016-17 **Dated: 21.04.2016** issued by: Assistant Commr STC(Div-IV), Ahmedabad.

घ अपीलकर्ता/प्रतिवादी का नाम एवम पता (Name & Address of the Appellant/Respondent)

M/s Amneal Pahmacueticals Company (I) 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 an 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) (क) (i). केंद्रीय उत्पाद शुल्क अधिनियम 1994 की धरा अतत नीचे बताए गए मामलों के बारे में पूवोक्त धारा को उप-धारा के प्रथम परंतुक के अंतर्गत पुनरीक्षण आवेदन अधीन सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली-110001 को की जानी चाहिए |

A revision application lies to the Under Secretary, to the Government of India, Revision Application Unit, Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi-110001, 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 हानि कारखाने से किसी भंडारगार या अन्य कारखाने में या किसी भंडारगार से दूसरे भंडारगार में माल ले जाते हुए मार्ग में, या किसी भंडारगार या भंडार में चाहे वह किसी कारखाने में या किसी भंडारगार में हो माल की प्रकिया के दौरान हुई हो |

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 मामले में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है |

G. file

केन्द्रीय उत्पाद शुल्क आयुक्तालय, (अपील-II) OFFICE OF THE COMMISSIONER (APPEAL-II) CENTRAL EXCISE AHMEDABAD अहमदाबाद

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

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 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 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 involved 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–बी/35–इ के अंतर्गतः–

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 मैन्टल हास्पिटल कम्पाउण्ड, मेघाणी 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 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 जहाँ उक्त न्यायाधिकरण की पीठ स्थित है।

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. 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 सरकार को एक आवेदन किया जाता हैं।

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 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 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 उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट), के प्रति अपीलो के मामले में कर्तव्य मांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है ।(Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

केन्द्रीय उत्पाद शुल्क और सेवा कर के अंतर्गत, शामिल होगा "कर्तव्य की मांग"(Duty Demanded) -

(i) *(Section)* खंड 11D के तहत निर्धारित राशि;
(ii) लिया गलत सेनवैट क्रेडिट की राशि;
(iii) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि.

⇨ यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलना में, अपील' दाखिल करने के लिए पूर्व शर्त बना दिया गया है .

For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

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.

इस सन्दर्भ में ,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।

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."

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

ORDER IN APPEAL

M/s. Amneal pharmaceuticals Co. (I) Pvt. Ltd., 882/1-871, Sarkhej-bavla Highway, Near Hotel Karnavati, Village Rajoda, Taluka Bavla, District Ahmedabad *(hereinafter referred to as 'appellants')* have filed the present appeal against the Order-in-Original number SD-04/Ref-05/AK/2016-17 dated 21.04.2016 *(hereinafter referred to as 'impugned order')* passed by the Assistant Commissioner, Service Tax, Division-IV, Ahmedabad *(hereinafter referred to as 'adjudicating authority')*.

2. The facts of the case, in brief, are that the appellants are registered with the Service tax department bearing registration number AAGCA0781KST001 for providing Scientific & Technical Consultancy Services and Technical Inspection & Certification Agency Service. The appellants were granted Letter Of Permission (LOP) dated 24.04.2008 to set up 100% EOU subject to implementation of the project and commence production activity within three years from the date of LOP.

3. The appellants had filed a refund claim amounting to ₹ 33,04,151/- on 12.03.2012 under Notification Number 05/2016-CE(NT) dated 14.03.2006 for the period April 2011 to June 2011 with the Assistant Commissioner of Service Tax, Division-IV, Ahmedabad. On scrutiny of the refund claim, some discrepancies were noticed in the refund claim and accordingly a show cause notice dated 01.06.2012 was issued to them. The said show cause notice was adjudicated vide OIO number SD-02/REF-48/RRB/2012-13 dated 07.09.2012 wherein out of the total claim amount of ₹33,04,151/- an amount of ₹3,835/- was sanctioned to the appellants and remaining amount of ₹33,00,316/- was rejected. Out of the rejected amount of ₹33,00,316/-, an amount of ₹32,98,441/- was rejected on account of time bar under Section 11B of the CEA, 1944. An amount of ₹21/- was rejected as CENVAT credit of the said amount was taken on Outdoor Catering Service which was not considered to be used for export service. Lastly, an amount of ₹1,854/- was rejected on the ground that annual maintenance charge is for the whole year and the claim was for quarter and hence, proportionate CENVAT credit was not admissible. Being aggrieved, the appellants preferred an appeal before the then Commissioner (Appeals-IV). The Commissioner (Appeals-IV), vide OIA number AHM-SVTAX-000-APP-262-13-14 dated 11.12.2013 allowed the appeal citing the following reasons;

(i) Regarding the rejection of ₹32,98,441/- as time barred, the issue was remanded back to decide it afresh keeping in mind the limitation period of one year from the date of receipt of payment towards the output services exported by the appellants as specified under Section 11B of the CEA, 1944 read with the beginning paragraph (b) of the Notification Number 05/2016-CE(NT) dated 14.03.2006.

(ii) Regarding the rejection of ₹21/- claimed on Outdoor Catering Service is concerned, the Commissioner (Appeals-IV) had upheld the OIO.

(iii) The rejection of ₹1,854/- claimed on Annual Maintenance Contract Service was not accepted by the Commissioner (Appeals-IV) and he allowed the appeal stating that there is no such provision for granting refund on proportionate basis.

3.1. Thus, the appellants resubmitted their claim before the adjudicating authority. The adjudicating authority, vide the impugned order, adjudicated the refund claim as per the order of the then Commissioner (Appeals-IV). The adjudicating authority accepted the fact that the refund of ₹32,98,441/- was filed by the appellants within the time limit prescribed under Section 11B of the CEA, 1944 read with the Notification Number 05/2016-CE(NT). The adjudicating authority, however, found that out of the amount of ₹32,98,441/-, an amount of ₹2,35,355/- was not admissible as the invoices pertaining to the said unutilized credit were prior to the issue of Service Tax registration. Further, it was also found that an amount of ₹72,839/- was taken as CENVAT credit on the basis of invoices issued for providing Outdoor Catering Services. Thus, the adjudicating authority, vide the impugned order, sanctioned an amount of ₹29,90,247/- out of the refund claim of ₹ 32,98,441/- and rejected an amount of ₹ 3,08,194/- (₹ 2,35,355/- + ₹72,839/-).

4. Being aggrieved with the impugned order the appellants have preferred the present appeal. Regarding the rejected amount of ₹ 2,35,355/-, stated the appellants, the refund is admissible under Rule 5 of the CENVAT Credit Rules, 2004. They quoted several case laws and judgments and stated that CENVAT credit is admissible and accordingly refund of accumulated credit cannot be denied. They further stated that obtaining Service Tax or Central Excise registration certificate is merely a procedural requirement and in the absence of such registration, benefits cannot be denied to the appellants. Regarding the rejection of ₹72,839/-, the appellants stated that the CENVAT credit of Service Tax paid on Outdoor Caterer Service is admissible to them. They quoted the Circular number 943/04/2011-CX dated 29.04.2011 and submitted that as per the said circular, the CENVAT credit of Service Tax paid on the taxable services, which were debarred from enjoying status of eligible input services was admissible if the taxable services were received prior to 01.04.2011. In support of their claim, they have submitted copies of the concerned invoices and claimed that the services were provided to them prior to 01.04.2011.

5. Personal hearing in the matter was granted on 21.02.2017, 22.03.2017 and 16.05.2017. However, no one from the side of the appellants appeared before me.

6. I have carefully gone through the facts of the case on records and grounds of appeal in the Appeal Memorandum submitted by the appellants. As they have not attended the personal hearing despite three opportunities granted to them, as mentioned in paragraph

केन्द्रीय उत्पाद शुल्क आयुक्तालय (अपील-II) OFFICE OF THE COMMISSIONER (APPEALS-II) CENTRAL EXCISE अहमदाबाद

above, I hereby decide the case *ex parte*. To begin with, I find that the adjudicating authority has sanctioned an amount of ₹ 29,90,247/- out of the refund claim of ₹32,98,441/- and rejected an amount of ₹3,08,194/- (₹2,35,355/- + ₹72,839/-) on the following grounds;

(i) ₹ 2,35,355/- was rejected on the ground that the appellants had obtained the Service Tax registration certificate on 19.11.2008 and the invoices on which the refund of ₹ 2,35,355/- was claimed, were received prior to the issue of the registration certificate.

(ii) ₹72,839/- was rejected on the ground that the invoices pertaining to the above amount, were issued to the appellants for providing Outdoor Catering Service and the said service would not be considered to be used for export of service.

Now I will discuss all the above issues, point wise, in detail.

7.1. Regarding the issue of rejection of ₹2,35,355/- on the ground that the appellants had obtained the Service Tax registration certificate on 19.11.2008 and the invoices were received prior to the issue of the registration certificate, I find that Rule 4 of Service Tax Rules requires a provider of output service is to register with the CENVAT excise department within a period of 30 days from the date on which the service tax is levied. Rule 3 of CENVAT credit Rules, 2004 allows a service provider to avail CENVAT credit of service tax paid on input services against the payment of service tax with the Central Government as prescribed in the rules. In 'C. Metric Solution Private Limited V. Commissioner of Central Excise, Ahamedabad' 2012 (7) TMI 379 - CESTAT, AHMEDABAD, the appellants had availed CENVAT credit of the Service Tax paid on input services during the period April 2008 to March 2009, after getting the Service Tax registration on 23.03.2009. The department was of the view that the appellants were not eligible for CENVAT credit on the input services for the period prior to the registration granted to the appellants. The department confirmed the demand which was also upheld by the first appellate authority. Before the Tribunal the appellants contended that they were a Software Technology Park Unit (STP) which was not disputed by the department. The appellants were exporting software manufactured by them. After getting the registration they had availed the CENVAT credit. The CENVAT credit was denied to them only on technical ground. The Tribunal held that the appellants were eligible to avail CENVAT credit of the Service Tax paid on input services after getting registration. In this case it is recorded that the appellants had shown or recorded the Service Tax paid on input services in a register which is considered as CENVAT account. If the appellants were eligible for CENVAT credit, post registration, this availment or showing account being credited by the Service Tax paid on input services, but not availing the same for the purpose of discharge of duty, would be more or less the same or an identical situation to indicate that as STP appellants were eligible for refund of unutilized credit. In 'J.R. Herbal

Care India Limited V. Commissioner of Central Excise, Noida' – 2010 (3) TMI 391 – CESTAT, NEW DELHI, the appellants had received the capital goods while availing SSI exemption without taking registration. CENVAT credit was taken on the capital goods for the years 2003 – 04 and 2004 – 05 but taken in the year 2005-06. This was allowed by the Tribunal. The Tribunal took a view that there is no provision in the rules that credit was not available to unregistered manufacturers. Manufacturers exempted from the registration do not cease to be a manufacturer of excisable goods. This case squarely covers the issue in this case also. Therefore, in respect of the goods manufactured/services exported during the period when the appellants were not registered, credit can be taken subsequently also. This view is further supported by the consistent stand taken by various judicial forums in the case of clandestine removals, even if the duty is paid subsequently, CENVAT credit on inputs used will be available to the assessee/manufacturer subject to the conditions that proper documents showing the payment of duty are available. In the case of SSI Units also, wherever SSI benefits have been denied, CENVAT credit has been allowed. In the case of Actis Advisers Pvt. Ltd. Vs. CST. – Delhi – IV [(2014) 9 TMI 182 – CESTAT New Delhi], the CESTAT, New Delhi had held that Cenvat credit in respect of inputs/ input services received by an output service provider during the period prior to his obtaining Service Tax registration is admissible and denial of Cenvat credit on this ground is not correct. In view of the above discussion, I consider that the adjudicating authority has wrongly denied the refund claim of ₹ 2,35,355/- on the ground of late obtaining of the registration certificate and accordingly allow the appeal filed by the appellants.

7.2. As regards the second issue of rejecting the refund amount of ₹ 72,839/- on the ground that the invoices pertaining to the above amount, were issued to the appellants for providing Outdoor Catering Service and the said service would not be considered to be used for export of service, I find that the appellants have submitted that out of the total CENVAT credit of Service Tax of ₹72,839/-, an amount of ₹ 51,753/- is admissible to them as that much amount of Service Tax was borne by them and the remaining amount of ₹21,086/- was in the form of contribution received from the employees. Thus, according to the appellants, they are eligible for ₹51,753/- as genuine claim of refund. At the onset, for easy understanding, I will discuss what actually an input service is. Meaning of Input Service: Input service is used by the service provider to provide output service. Thus, the tax paid on the input service can be utilised as CENVAT Credit. In general "input service" means any service, — (i) used by a provider of taxable service for providing an output service; or (ii) used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products up to the place of removal. It is significant to note that in the main part of the definition, while defining input service for a manufacturer, it is said that 'input service' means any service used by a manufacturer whether directly or indirectly, in or in relation to the manufacture of final products....' and while defining the same for a service provider, it is said that 'input

service' means any service used by a provider of taxable service for providing an output service. Thus, the main part of the definition provides that input service is any service used for the provision of output service which can practically lead to an interpretation where all legitimate input services procured for business can get covered under the definition. Therefore the credit of service tax paid on activities although not directly or indirectly related to manufacture of goods, is admissible as input service credit to the appel ants treating the same as activities in relation to business. However, w.e.f. 01-04-2011 onwards, one cannot avail or distribute the CENVAT credit on certain services, as they have been specifically denied in the definition of Input Services under Rule 2(l) of the CENVAT credit Rules, 2004 as amended from time to time. However, as per the Circular number 943/04/2011-CX dated 29.04.2011, it is very well clarified in the serial number 12 that the credit on such service shall be available if its provision had been completed before 1.4.2011. The appellants have submitted, before me, photocopies of all the invoices of M/s. Khushbu Caterers and all the invoices were issued prior to 01.04.2011. In view of the above, I find that the appellants are rightly eligible for ₹ 51,753/- as refund.

8. Therefore, in view of the discussion held above, I set aside the impugned order and allow the appeals filed by the appellants with consequential relief.

9. अपीलकर्ता द्वारा दर्ज की गई अपीलो का निपटारा उपरोक्त तरीके से किया जाता है।

9. The appeals filed by the appellant stand disposed off in above terms.

उमाशंकर

(उमा शंकर)

CENTRAL TAX (Appeals),

AHMEDABAD.

ATTESTED

27.07.17

(S. DUTTA)

SUPERINTENDENT, CENTRAL TAX (APPEALS),

AHMEDABAD.

केन्द्रीय उत्पाद शुल्क आयुक्त (अपील) OFFICE OF THE COMMISSIONER (APPEALS) CENTRAL EXCISE AHMEDABAD अहमदाबाद

To,
M/s. Amneal pharmaceuticals Co. (I) Pvt. Ltd.,
882/1-871, Sarkhej-bavla Highway, Near Hotel Karnavati,
Village Rajoda, Taluka Bavla,
District Ahmedabad- 382 220.

Copy to:

1) The Chief Commissioner, Central Tax, Ahmedabad.
2) The Commissioner, Central Tax, Ahmedabad (North).
3) The Dy./Asst. Commissioner, Central Tax, Division-IV (Changodar), Ahmedabad (North).
4) The Asst. Commissioner (System), Central Tax Hq, Ahmedabad (North).
5) Guard File.
6) P.A. File.

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