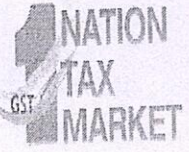




सत्यमेव जयते

आयुक्त का कार्यालय, (अपीलस)  
Office of the Commissioner,



केंद्रीय जीएसटी, अहमदाबाद आयुक्तालय

Central GST, Appeal Commissionerate- Ahmedabad

जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015

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रजिस्टर डाक ए.डी.द्वारा

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क फाइल संख्या (File No.) : V2(87)9 & 10/North/Appeals/ 2018-19  
ख अपील आदेश संख्या (Order-In-Appeal No.): AHM-EXCUS-002-APP-59-60-18-19  
दिनांक (Date): 03-Sep-18 जारी करने की तारीख (Date of issue): 5/10/18  
श्री उमा शंकर, आयुक्त (अपील) द्वारा पारित  
Passed by Shri Uma Shanker , Commissioner (Appeals)

ग \_\_\_\_\_ आयुक्त, केंद्रीय उत्पाद शुल्क, (मंडल-IV), अहमदाबाद उत्तर, आयुक्तालय द्वारा जारी  
मूल आदेश सं \_\_\_\_\_ दिनांक \_\_\_\_\_ से सृजित  
Arising out of Order-In-Original No 07/ADC/2018/RMG Dated: 06/03/2018  
issued by: Additional Commissioner-Central Excise (Div-IV), Ahmedabad North

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

M/s Rohan BRC Gas Equipment 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 धारा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त 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।



(b) In case of rebate or duty or 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 है।

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

(घ) 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 (न.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 such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec. 109 of the Finance (No.2) Act, 1998.

(१) 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. के 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.

(२) 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 रुपये से ज्यादा हो तो रुपये 1000/- फीस भुगतान की जाए।

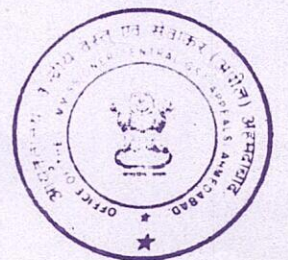
The revision application shall be accompanied by a fee of Rs. 200/- where the amount involved in Rupees One Lac or less and Rs. 1000/- where the amount involved is more than Rupees One Lac.

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

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35-बी/35-इ के अंतर्गत:-  
Under Section 35B/35E of CEA, 1944 an appeal lies to:-

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

The special bench of Customs, Excise & Service Tax Appellate Tribunal of West Block No. 2, R.K. Puram, New Delhi in all matters relating to classification valuation and



- (ख) उक्तिखित परिच्छेद 2(1) क में बताए अनुसार के अलावा की अपील, अपीलों के मामले में सीमा शुल्क, केंद्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में ओ-20, न्यू मेन्टल होस्पिटल कम्पाउंड, मेघानी नगर, अहमदाबाद-380016.
- (b) To the West regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at O-20, New Mental Hospital Compound, Meghani Nagar, Ahmedabad: 380016, in case of appeals other than as mentioned in para-2(1) above.
- (2) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 की धारा 6 के अंतर्गत प्रपत्र इ.ए.-3 में निर्धारित किए अनुसार अपीलीय न्याधिकरण की गई अपील के विरुद्ध अपील किए गए आदेश की चार प्रतियाँ सहित जहाँ उत्पाद शुल्क की माँग, ब्याज की माँग और लगाया गया जुर्माना रूपए 5 लाख या उससे कम है वहाँ रूपए 1000/- फ़ीस भेजनी होगी । जहाँ उत्पाद शुल्क की माँग और लगाया गया जुर्माना रूपए 5 लाख या ५० लाख तक हो तो रूपए ५०००/ फ़ीस भेजनी होगी । जहाँ उत्पाद शुल्क की माँग और लगाया गया जुर्माना रूपए ५० लाख या उससे ज्यादा हो तो रूपए १००००/ फ़ीस भेजनी होगी । फ़ीस सहायक रजिस्टार के नाम से रेखांकित बैंक ड्राफ्ट के रूप में संबंध में की जाए । यह ड्राफ्ट उस स्थान के किसी नामित सार्वजनिक क्षेत्र के बैंक की शाखा का हो जहाँ उक्त न्यायाधिकरण की पीठ स्थित है । स्टे के लिए आवेदन-पत्र रूपए ५००/- फ़ीस भेजनी होगी ।
- 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.5000/-, 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 crossed bank draft in favour of Asst. Registrar of 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. Application made for grant of stay shall be accompanied by a fee of Rs. 500/-
- (3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिये फ़ीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिये इस तथ्य के होते हुए भी की लिखा पढ़ी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केंद्रीय 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 १९७० यथा संशोधित की अनुसूची-१ के अंतर्गत निर्धारित किये अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रूपए ६.५० पैसे का न्यायालय शुल्क टिकट लगा होना चाहिये ।
- 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 सम्बंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केंद्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्यावधि) नियम, १९८२ में निहित है ।
- (6) Attention is invited to the rules covering these and other related matter contended in Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.



**ORDER-IN-APPEAL**

Two appeals have been filed as mentioned below against OIO No. 07/ADC/2018/RMG dated 06.03.2018, passed by the Additional Commissioner, of Central Excise and CGST, Ahmedabad North Commissionerate [for short - '*adjudicating authority*'].

Sr. No.	Name of the appellant(s)	Appeal No.
1	M/s. Rohan BRC Gas Equipment Private Limited, 5, Ashwamegh Industrial Estate, Changodar, Ahmedabad- 382 213.	V2(87)9/North/Appeals/2018-19
2	Shri Upendrabhai Chhanalal Shah, Manager (Accounts) of M/s. Rohan BRC Gas Equipment Private Limited, 5, Ashwamegh Industrial Estate, Changodar, Ahmedabad-382 213.	V2(87)10/North/Appeals/2018-19

2. Based on an intelligence, a search was conducted at the appellant's premises. On completion of investigation, a show cause notice dated 23.3.2015, was issued to the appellant mentioned at Sr. No. 1, *supra*, proposing *inter alia* to hold the activity of assembly of CNG/LPG kit cleared to dealers to amounting to manufacture; demanding central excise duty along with interest and further proposing confiscation of the goods cleared to various dealers without payment of duty. The notice further proposed penalty on the appellant(s) mentioned at Sr. No. 1 and 2 above. This show cause notice was adjudicated by the then Additional Commissioner vide his OIO dated 17.5.2016, wherein the adjudicating authority, held that the activity of assembly of the CNG/LPG gas conversion kit amounts to manufacture; confirmed the demand along with interest and further imposed penalty on both the appellants mentioned at Sr. No. 1 and 2 in the table above. Feeling aggrieved, the appellant has filed an appeal before me, which was decided vide my OIA No. AHM-EXCUS-002-APP-044-045-17-18 dated 28.8.2017, wherein I had remanded back the matter to the adjudicating authority with certain directions. Thereafter, the matter was decided vide the impugned OIO dated 6.3.2018 wherein the adjudicating authority once again confirmed the demand along with interest and further imposed penalty on both the appellants mentioned at Sr. No. 1 and 2, in the aforementioned table.

3. Feeling aggrieved, the appellant(s) have filed this appeal raising the following grounds:

(i) M/s. Rohan BRC Gas Equipment Private Limited

(a) that the appellant is engaged in two separate business activities one being that of manufacturing a complete CNG/LPG Gas conversion kit for motor vehicles and the other being that of trading a few parts of CNG/LPG Gas conversion kit;

(b) that the complete CNG/LPG conversion kit is being cleared on payment of duty to OEMs [Original Equipment Manufacturers] ;

(c) that in a demarcated separate premises, the appellant is engaged in trading wherein certain parts and components imported and purchased locally were repacked by the appellant in a corrugated box and sold as a part of trading activity;

(d) that they would like to rely on the case of CEV Engineering P Ltd [2015(38) STR 93], wherein it is held that procuring different components through import as well as from local sources and packing them as CNG kits with instruction manual and diagram, cannot be considered as manufacture of excisable commodity; that an appeal against this judgement has already been dismissed by the Hon'ble Supreme Court of India;

(e) that the lower adjudicating authority grossly erred in not appreciating the facts of the case and the directions of the Appellate Commissioner;

(f) that a complete kit sold, comprised of 20 different components and only when all 20 components were put together it would comprise a complete kit;



- (g) that on perusal of invoices relating to trading it is evident that there is a mention of CNG/LPG Conversion kit has been suffixed by MPFI, HPFI(E), MPFI(Sequent), MPFI (Economic), etc.;
- (h) that the description of the goods has been suffixed only because it is not possible to describe all parts contained in such incomplete kits supplied by the appellant and the number of parts contained in such incomplete kits supplied by the appellant would depend on the abbreviations used to describe the goods in the invoices;
- (i) that the adjudicating authority did not consider the documents produced by the appellant only because the description in the invoices produced by the appellant had the particulars "CNG/LNG Conversion Kit";
- (j) the adjudicating authority failed to examine the second direction of the Commissioner(A) as to whether the purchaser trader would be able to assemble the parts cleared by the appellant into an LPG/CNG conversion kit;
- (k) that the Revenue has not discharged the burden cast upon it to establish that trading of a few parts/components constituted manufacture and that such traded goods had a distinct name, use and characteristics;
- (l) that the adjudicating authority has not found in case of even a single trading transaction that the parts/components sold by the appellant company were adequate for assembling a complete gas conversion kit;
- (m) that they would like to rely on the case of HPCL [1999(112) ELT 8], M/s. XI Telecom Ltd [1999(105) ELT 263], Dalmia Industries Ltd [1999(112) ELT 305], Bajaj Auto Ltd [2000(120) ELT 668], Diamond chain Ltd [2000(126) ELT 790], Indian Meditronics P ltd [2006(199) ELT 347];
- (n) that there was no suppression of facts;
- (o) that they are eligible for cum duty benefit;
- (p) that no penalty is imposable

(ii) Shri Upendrabhai Chanalal Shah, in his appeal has stated that the imposition of penalty is wholly unreasonable and illegal action because he did not have any personal interest in the conduct and business affairs of the appellant mentioned at Sr. No. 1 above; that he would like to rely on the case of Vinod Kumar [2006(119) ELT 705], R K Ispat Udyog [2007(211) ELT 460] and Order No. A/835/2009 dtd 20.4.2009 of CESTAT, Ahmedabad; that personal penalty on the employee was not justified nor called for when the employee was discharging his duties in accordance with the directions of the employer.

4. Personal hearing in both these appeals was held on 4.6.2018, wherein Ms. Shilpa Dave and Shri Paresh Dave, both Advocates, appeared on behalf of both the appellants and reiterated the grounds of appeal. Thereafter, vide letter dated 14.6.2018, Shri Dave sought time upto 9.7.2018 to submit the documents. Subsequently, vide his letter dated 10.7.2018, he submitted a file which contained statement of invoices of trading of parts and also the invoices pertaining to sale to OEM buyers for two months, December 2010 and January 2011. He also sought one more personal hearing in the matter. The personal hearing was thereafter granted on 1.8.2018, wherein Shri Paresh Dave, Advocate, appeared and specifically pointed out the prices of goods supplied to OEM dealers. He also drew my attention to para 12.1 of the impugned OIO wherein parts have been taken as a full kit. He further pleaded limitation. He also drew the attention to the panchnamma to highlight the fact that there were two separate sections – one for manufacturing and the other for trading. He also submitted a copy of the judgement in the case of CEV Engineering P Ltd [2015(38) STR 93] and 2015(39) (STR) J 85].

5. I have gone through the facts of the case, the appellant's grounds of appeal, and the oral submissions made during the course of personal hearing.



6. The primary dispute is whether the adjudicating authority was correct in holding that the clearances of CNG/LPG automobile conversion kits by the appellant to dealers/traders, were liable to central excise duty.

7. I find that the adjudicating authority has arrived at the aforementioned findings based on the following:

- (a) that the Commissioner(A) vide his OIA had set forth the three points that were to be determined;
- (b) that his predecessor had examined and held that evidences clearly established that CNG/LNG automobile conversion kits supplied to dealers /traders were complete kits;
- (c) that the certificate of the chartered engineer clearly establishes the essential components of the kits;
- (d) that on going through the invoices and the description of the goods clearly establish that the appellant cleared the entire CNG/LNG kit without payment of excise duty to their dealers /traders in the guise of trading activity as these are similar to goods cleared to OEMs on payment of duty;
- (e) that the goods sold as per the documents submitted by the appellant was automobile conversion kits; that if parts had been cleared it would have been mentioned in the invoices as such;
- (f) that the documents available on record and the write up is contrary; that the documentary evidence is crucial to conclude a matter;
- (g) that the documentary evidences clearly show that what was cleared to the dealer/trader was whole kit and not parts;
- (h) that since the result of the verification of the first point is negative, there is no need to examine the second point assigned by the Commissioner(A);
- (i) that even if the appellant's contention that they had supplied some parts of the kits to dealers/traders is accepted considering the fact that such parts components were sold under the description conversion kit, what was supplied to dealers/traders were conversion kit assembly; that when assembled the resulting product is an automobile conversion kit;
- (j) that the activity of supplying goods to traders/dealers under invoices is leviable to central excise duty in view of section 2(f) of the Central Excise Act, 1944, read with rule 2(a) of the General Rules of Interpretations and notes 4 & 6 to Section XVI of CETA 1985.
- (k) that the notice is not hit by limitation and the appellant is not eligible for cum-duty benefit.

8. I have already dealt with the issue in my earlier OIA dated 28.8.2017. While remanding back, I had asked the adjudicating authority to give his findings on the two crucial questions and thereafter decide the matter, viz.

*[a] whether, the appellant is correct when he states that only 12 parts were supplied to dealers/traders and not the whole kit, as supplied to OEMs;*

*[b] If yes, whether with these 12 parts, the purchaser/dealer/trader would be able to assemble the said parts into a LPG/CNG conversion kit i.e. whether it had the essential character of the complete or finished article.*

The adjudicating authority's finding is already mentioned supra, on the aforementioned question.

9. But I find that the appellant **now** has relied upon a new case law viz. CEV Engineering P Limited [2015(38) STR 93], wherein the Hon'ble Tribunal, held as follows [operative portion]:

*"6. The appellant prepare the kit consisting of the items required for converting a motor vehicle into CNG run vehicle. For this purpose, some items like Electric Central Units (ECUs), Regulators, injectors, filters, etc. are imported on payment of appropriate customs duty and the other items - CNG cylinder, high pressure pipes, gauge and hoses are procured from the domestic manufacturers on which central excise duty has been paid and all these items are packed as CNG kits along with a diagram and instruction manual explaining how the kit is to be installed in a particular vehicle. It is the various components and installation manual which are sold as CNG kit. The appellant do not manufacture any of the above items. There is also no dispute that on the sale of the CNG kit, sales tax is paid on the value of the CNG kit and wherever the appellant installed the kit in a customer's vehicle, service tax is paid on the installation charges. The point of dispute is as to whether the very act of collecting various components and fitting them into a box for installation in the CNG would amount to manufacture. We find that in respect of similar activity the act of making cable jointing kit Hon'ble High Court of Andhra*



*Pradesh in case of XI Telecom Ltd. (supra) has held that making cable jointing kit does not amount to manufacture. Similarly the Tribunal in the case of Dalmia Industries v. CCE (supra) held that collecting bottles, feeder nipples and bottle lids from diverse sources in the market, packing them in a combine pack after sterilization and selling the product under name of "Milk Care Designer Feeder" would not amount to manufacture and this judgment of the Tribunal has been affirmed by the Apex Court. Similarly, the Tribunal in the case of TI Diamond Chain Ltd. (supra) has held that procuring sprockets, and packing them after testing and branding along with automotive chains and connecting links in a kit does not amount to manufacture, even if various items of the kit after being procured from different sources had been subjected to testing and branding and this judgment of the Tribunal has also been affirmed by the Apex Court. The ratio of the above judgments of the Tribunal, Hon'ble Andhra Pradesh High Court and of the Apex Court is squarely applicable to the facts of this case. The judgment of the Tribunal in the case of Transenergy Ltd. (supra) is not applicable to the facts of this case as in this case, the Tribunal has not gone into the question as to whether mere packing of different items required for CNG conversion kit into a box would amount to manufacture. From the facts stated in the order in case of Transenergy Ltd., it is not clear as to whether the various items required for conversion kits were being procured by M/s. Transenergy Ltd. from outside and thereafter were being packed into a kit or were being manufactured by them before being packed into CNG conversion kit. We, therefore, hold that the impugned order is not sustainable. The same is set aside. The appeal as well as stay application is allowed."*

*[emphasis supplied]*

I would like to reproduce what is mentioned in para 1, page 3 of the panchnama dated 24.4.2012, recorded at the premises of the appellant, which states as follows:

*".....Thereafter, we enter another portion of the same shed through a separate entry. Shri Upendrabhai informs the officer in our presence that trading activities of CNG/LPG kits is undertaken from this separate premises. On being further asked Shri Upendrabhai informs that no activity of assembly of parts is undertaken from this premises. He further informs that as per the requirements of the customers the parts/components of CNG/LPG kits purchased locally and imported by them are repacked in corrugated boxes and sold/dispached. The contents included solenoid valves, tanks, pressure pipes, filling pipes, hardware like nuts, bolts, washers, switches etc.. On being specifically asked Shri Upendrabhai informs that they keep a separate inventory of all the components and parts for this particular section. The list of such parts packed in a box is attached as Annexure B to this panchnama. It is also observed by us that no tools or machineries are installed on functioning in this particular area. He further informs that in respect of such goods they do not avail CENVAT Credit on components purchased and they sell the same by issued VAT invoices."*

9.1 Now facts are crystal clear. The aforementioned judgement is squarely applicable to the present case. Since the Tribunal has held that the process does not amount to manufacture, the question of demanding Central Excise duty in respect of the clearances made to dealers/traders simply does not arise and therefore, the impugned OIO is set aside. In-fact, department had filed an appeal against the judgement of the Tribunal before the Supreme Court of India, which has dismissed by the Hon'ble Apex Court, by passing the following order:

*"We have heard Shri Ranjit Kumar, learned Solicitor General appearing for the appellant. Delay condoned. Having gone through the records of the case, we are of considered opinion that the appeals, being devoid of any merit, are liable to be dismissed and, are dismissed."*

10. In view of the foregoing, the impugned OIO is set aside. Both the appeals as listed in para 1, are allowed.



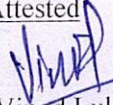
11. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।  
11. The appeal filed by the appellants stands disposed of in above terms.

उमा शंकर  
(उमा शंकर)

केन्द्रीय कर आयुक्त (अपील्स)

Date : .09.2018

Attested

  
(Vinod Lukose)  
Superintendent,  
Central Tax(Appeals),  
Ahmedabad.

By RPAD.

To,

M/s. Rohan BRC Gas Equipment Private Limited, 5, Ashwamegh Industrial Estate, Changodar, Ahmedabad.  (New Address)	Shri Upendrabhai Chhanalal Shah, Manager (Accounts) of M/s. Rohan BRC Gas Equipment Private Limited, 5, Ashwamegh Industrial Estate, Changodar, Ahmedabad  (New Address)
M/s. Rohan BRC Gas Equipment Private Limited, Plot No. 291/304, Panchratna Industrial Estate, Besides IOC Petrol Pump, Sarkhej Bavla Road, Changodar, Ahmedabad 382 213.	Shri Upendrabhai Chhanalal Shah, Manager (Accounts) of M/s. Rohan BRC Gas Equipment Private Limited, Plot No. 291/304, Panchratna Industrial Estate, Besides IOC Petrol Pump, Sarkhej Bavla Road, Changodar, Ahmedabad 382 213.

Copy to:-

1. The Chief Commissioner, Central Tax, Ahmedabad Zone .
2. The Principal Commissioner, Central Tax, Ahmedabad South Commissionerate.
3. The Deputy/Assistant Commissioner, Central Tax, Division I, Ahmedabad South.
4. The Additional Commissioner, System, Central Tax, Ahmedabad South Commissionerate.
5. Guard File.
6. P.A.

