



आयुक्त का कार्यालय, (अपीलस)

Office of the Commissioner,

केंद्रीय जीएसटी, अहमदाबाद आयुक्तालय

Central GST, Appeal Commissionerate- Ahmedabad

जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.

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क फाइल संख्या (File No.): V2(39)20/North/Appeals/ 2019-20 / 11402 to 11406

ख अपील आदेश संख्या (Order-In-Appeal No.): AHM-EXCUS-002-APP-76-19-20

दिनांक (Date): 09/07/2019 जारी करने की तारीख (Date of issue): _____

श्री उमा शंकर, आयुक्त (अपील) द्वारा पारित

10/07/2019

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 12/DC/D/2018/AKJ Dated: 12/03/2019

issued by: Deputy Commissioner-Central Excise (Div-IV), Ahmedabad North,

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

M/s Time Technoplast 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 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।



Cont...2

- (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 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/- फ़ीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख रुपये से ज्यादा हो तो रुपये 1000/- फ़ीस 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



रेखांकित बैंक ड्राफ्ट के रूप में संबंध की जाये। यह ड्राफ्ट उस स्थान के किसी नामित सावधानिक क्षेत्र के बैंक का 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. 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 पढी 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 अनुसूची-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 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 उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट), के प्रति अपील 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।

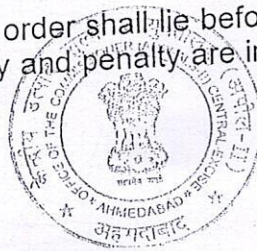
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section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



ORDER - IN - APPEAL

M/s. Time Technoplast Limited, Changodar, Ahmedabad presently operating business from Iyava, Tal-Sanand, Dist-Ahmedabad (henceforth, "appellant") has filed the present appeal against the Order-in-Original No.12/DC/D/2018-19/AKJ dated 12.03.2018(henceforth, "impugned order") passed by the Deputy Commissioner, Central GST & Central Excise, Division-IV, Ahmedabad-North(henceforth, "adjudicating authority").

2. The facts of the case, in brief, are that based on audit, a show cause notice for reversal of CENVAT credit of input service Rs.9,17,146/- which were availed on service tax paid on outward transportation of goods during April 2016 to June 2017 was issued to the appellant which was decided under impugned order disallowing said CENVAT credit. It was held by the adjudicating authority that CENVAT credit of service tax paid on outward transportation of goods i.e. beyond the place of removal cannot be considered as "input service" defined under Rule 2(l) of Cenvat Credit Ruler, 2004 and hence not admissible.

3. Being aggrieved with the impugned order, the appellant preferred this appeal contesting *inter alia* that outward transportation are used directly or indirectly in or in relation to manufacture and clearance of final product and hence the same are 'input service' eligible for credit under Rule 2(l) of CCR,2004; that scope of input service is not confined to service directly used in manufacture; that if service relates to business activity of the assessee, it would be treated as an input service as the list provided in the inclusive definition is illustrative and not exhaustive.; that property in goods is transferred only on giving physical possession of goods which takes place at the place of delivery; that Circular no.97/8/2007- ST dated 23.08.2007 and 998/12/2014 Cx dated 20.10.2014 clarified that credit of service tax paid on freight for transportation of goods from factory gate upto customers premises was admissible subject to fulfillment of conditions. In as much as manufacture is under contractual obligation to deliver the goods at customers premise, the ownership and property in the goods is transferred on delivery, the manufacture has born the risk of loss/damage in transit and freight charges are included in the sales price then in such cases customers premise would be treated as 'place of removal' and accordingly credit upto customers premise would be admissible; that by relying on Hon'ble Tribunal judgment, the adjudicating



authority has failed to appreciate the judicial discipline of Higher forum like Hon'ble Supreme Court and High Court in interpreting admissibility on outward transportation service beyond the place of removal; that CA certificate dated 01.08.2018 certifies that sales were FOR destination, appellants were under obligation to deliver the goods upto customers premise, transportation charges were included in the assessable value & risk and ownership in goods were with appellant; that goods were insured by the appellant; that all conditions of Circular no.97/8/2007-ST dated 23.08.2007 and 998/12/2014 CX dated 20.10.2014 are satisfied; that now CBIC Circular no.116/23/2008-CX 3 dated 8.06.2018 after taking into consideration Hon'ble SC judgement in Roofit, Ispat Ind, Ultra Tech Cement has clarified that Circular no.97/8/2007-ST dated 23.08.2007 (clause c of para 8.1 & 8.2) and 998/12/2014 CX dated 20.10.2014 have been omitted from the date of issue of circular dated 8.06.2018. Therefore, credit on outward freight was held to be admissible; that Circular dated 23.08.2007 was superseded by CBIC circular dated 08.06.2018 and hence for the prior period thereto credit cannot be denied; that Hon'ble Supreme Court in CCE v/s Ultra Tech Cement (2018(9) GSTL 337 (SC)) has interpreted 'Place of removal' and not 'point of sale' and hence ratio of the same would not apply. They cited case law viz, Hon'ble Bombay High Court in case of Coca Cola India Pvt Ltd 2009(242)ELT 168(Bom), Deepak Fertilizer & Petrochemical 2003(32)STR532, Wills Processing Services 2017-TIOL-2072-HC-Mum-St. They further stated that after Supreme Court judgment in case of CCE v/s Ultratech Cement (2018(9) GSTL 337 (SC)), extended period as well as demand within period also not invocable and penal provisions not sustainable, Etc.

4. In the personal hearing held on 22.05.2019, Shiv Chandra Singh and Pankaj Mewara appeared on behalf of the appellant and reiterated the grounds of appeal.

5. I have carefully gone through the appeal wherein the issue of eligibility of CENVAT credit of service tax paid on outward transportation of finished goods is under dispute and it needs to be decided whether said services falls under the definition of 'input service' as defined under Rule 2 (l) of Cenvat Credit Rules 2004 or otherwise. The appellant is a manufacturer of plastic drum & barrels falling under chapter 3923 of Central excise Tariff Act, 1944 and in order to check the admissibility of Cenvat credit, it needs to be ascertained whether the service under

question were used in manufacturing of plastic drum/barrels or even in the clearance of final product up to place of removal. It is an admitted position that the instant case needs to be decided based on the applicability of the phrase 'in the clearance of final product up to place of removal' used in the definition of input service. There is also no ambiguity on the issue that "outward transportation upto the place of removal" is also covered in the definition of input service under Rule 2 (I) of Cenvat Credit Rules, 2004 and hence Cenvat credit of service tax paid on outward transportation upto the place of removal is eligible to the manufacturer. For determining the admissibility of Cenvat credit of service tax paid on outward transportation, first of all it needs to be decided which one is the place of removal, whether the premise of the appellant or the buyer? It is vigorously contested by the appellant that they were under the contractual obligation to deliver the goods at customers premise, the ownership and property in the goods is transferred on delivery, they have born the risk of loss/damage in transit and freight charges are included in the sales price and hence customers premise would be treated as 'place of removal'. They argued that all conditions of Circular no.97/8/2007-ST dated 23.08.2007 are satisfied. They also relied on Circular No.998/12/2014 CX dated 20.10.2014 and stated that purchase orders and invoices clearly shows that the intention of the parties(appellants & customers) was that sale would be complete only after goods are delivered by seller at address of buyer.

6. 'Place of removal' as provided under Section 4(3)(c) of Central Excise Act, 1994 are as under;

(c) "place of removal" means -

- (i) a factory or **any other place** or premises of production or manufacture of the excisable goods;
- (ii) a warehouse or any other place or premises wherein the excisable goods have been permitted to be deposited without [payment of duty;]

[(iii) a depot, premises of a consignment agent or any other place or premises from where the excisable goods are to be sold after their clearance from the factory;]

from where such goods are removed;

It is clear from the above definition that place of removal can be factory or any other place or depot, premises of consignment agent or any other place or premises from where the goods are to be sold which clearly includes customer's premises or depot from where the goods are



sold. As the place of removal is not defined in CENVAT Credit Rules, 2004 but Rule 2(t) of CCR, 2004 says that words and expressions used in these rules and not defined but defined in the Excise Act or Finance Act shall have the meanings respectively assigned to them in those acts.

7. The Circular No. 97/8/2007 dated 23.08.2007 dwells in detail on the issue of upto what stage a manufacturer/consignor is eligible to take credit of service tax paid on freight outwards by road upto place of removal on FOR basis. The said circular proceeds to clarify that the eligibility for the manufacturer to take credit on service tax paid on outward transportation would depend upon the above definition of place of removal as per Central Excise Act, 1944. However the circular states that,

"there may be situations where the manufacturer/consignor may claim that the sale has taken place at the destination point because in terms of the sale contract /agreement (i) the ownership of goods and the property in the goods remained with the seller of the goods till the delivery of the goods in acceptable condition to the purchaser at his door step; (ii) the seller bore the risk of loss of or damage to the goods during transit to the destination; and (iii) the freight charges were an integral part of the price of goods. In such cases, the credit of the service tax paid on the transportation up to such place of sale would be admissible if it can be established by the claimant of such credit that the sale and the transfer of property in goods (in terms of the definition as under section 2 of the Central Excise Act, 1944 as also in terms of the provisions under the Sale of Goods Act, 1930) occurred at the said place.

8. Above circular dated 23.08.2007 and clause (c) of para 8.1 & 8.2 of circular No.988/12/2014 dated 20.10.2014 stands rescinded vide Circular No.1065/4/2018-Cx dated 08.06.2018 issued by CBIC. However the period of dispute of the present case pertains to April 2016 to June 2017 during which said circulars were operative. However, another Circular No.1065/4/2018-CX issued by Central Board of Indirect taxes & Customs on 8.6.2019 has finally clarified the issues of availment of CENVAT credit on GTA service as well as "Place of removal" which I reproduce below for ease of reference;

Subject : 'Place of Removal' under Section 4 of the Central Excise Act, 1944, the CENVAT Credit Rules, 2004 and the CENVAT Credit Rules, 2017 - Regarding.

Attention is invited to Boards Circular No. 97/8/2007-CX., dated 23-8-2007 [2007 (215) E.L.T. (T24)], 988/12/2014-CX., dated 20-10-2014 [2014 (309) E.L.T. (T3)] and 999/6/2015-CX., dated 28-2-2015 [2015 (317) E.L.T. (T7)]. Attention is also invited to the judgment of Hon'ble Supreme Court in the case of CCE v. M/s. Roofit Industries Ltd. - 2015 (319) E.L.T. 221 (S.C.), CCE v. Ispat Industries Ltd. - 2015 (324) E.L.T. 670 (S.C.), CCE, Mumbai-

III v. Emco Ltd. - 2015 (322) E.L.T. 394 (S.C.) and *CCE & ST v. Ultra Tech Cement Ltd.* dated 1-2-2018 in Civil Appeal No. 11261 of 2016 [2018 (9) G.S.T.L. 337 (S.C.)]. In this regard, references have been received from field formations seeking clarification on implementation of aforesaid circulars of the Board in view of judgments of Hon'ble Supreme Court.

2. In order to bring clarity on the issue it has been decided that **Circular No. 988/12/2014-CX., dated 20-10-2014 shall stand rescinded from the date of issue of this circular.** Further, clause (c) of para 8.1 and para 8.2 of the **Circular No. 97/8/2007-CX., dated 23-8-2007 are also omitted** from the date of issue of this circular.

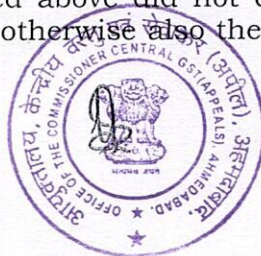
3. **General Principle :** As regards determination of 'place of removal', in general the principle laid by Hon'ble Supreme Court in the case of *CCE v. Ispat Industries Ltd.* - 2015 (324) E.L.T. 670 (S.C.) may be applied. Apex Court, in this case has upheld the principle laid down in *M/s. Escorts JCB* (supra) to the extent that 'place of removal' is required to be determined with reference to 'point of sale' with the condition that place of removal (premises) is to be referred with reference to the premises of the manufacturer. The observation of Hon'ble Court in para 16 in this regard is significant as reproduced below :

"16. It will thus be seen where the price at which goods are ordinarily sold by the assessee is different for different places of removal, then each such price shall be deemed to be normal value thereof. Sub-clause (b)(iii) is very important and makes it clear that a depot, the premises of a consignment agent, or any other place or premises from where the excisable goods are to be sold after their clearance from the factory are all places of removal. What is important to note is that each of the premises is referable only the manufacturer and not to the buyer of excisable goods. The depot or the premises of the consignment agent of the manufacturer are obviously places which are referable to the manufacturer. Even the expression "any other place of premises" refers only to a manufacturer's place or premises because such place or premises is to be stated to be where excisable goods "are to be sold". These are key words of the sub-section. The place or premises from where excisable goods are to be sold can only be manufacturer's premises or premises referable to the manufacturer. If we were to accept contention of the revenue, then these words will have to be substituted by the words "have been sold" which would then possibly have reference to buyer's premises."

4. **Exceptions :**

(i) The principle referred to in para 3 above would apply to all situations except where the contract for sale is FOR contract in the circumstances identical to the judgment in the case of *CCE, Mumbai-III v. Emco Ltd.* - 2015 (322) E.L.T. 394 (S.C.) and *CCE v. M/s. Roofit Industries Ltd.* 2015 (319) E.L.T. 221 (S.C.). To summarise, in the case of FOR destination sale such as *M/s. Emco Ltd.* and *M/s. Roofit Industries* where the ownership, risk in transit, remained with the seller till goods are accepted by buyer on delivery and till such time of delivery, seller alone remained the owner of goods retaining right of disposal, benefit has been extended by the Apex Court on the basis of facts of the cases.

(ii) Clearance for export of goods by a manufacturer shall continue to be dealt in terms of Circular No. 999/6/2015-CX., dated 28-2-2015 as the judgments cited above did not deal with issue of export of goods. In these cases otherwise also the buyer is located outside India.



5. **CENVAT Credit on GTA Services etc.** : The other issue decided by Hon'ble Supreme Court in relation to place of removal is in case of *CCE & ST v. Ultra Tech Cement Ltd.*, dated 1-2-2018 in Civil Appeal No. 11261 of 2016 on the **issue of CENVAT Credit on Goods Transport Agency Service availed for transport of goods from the 'place of removal' to the buyer's premises.** The Apex Court has allowed the appeal filed by the Revenue and held that **CENVAT Credit on Goods Transport Agency service availed for transport of goods from the place of removal to buyer's premises was not admissible for the relevant period.** The Apex Court has observed that after amendment of in the definition of 'input service' under Rule 2(l) of the CENVAT Credit Rules, 2004, effective from 1-3-2008, the **service is treated as input service only 'up to the place of removal'.**

6. **Facts to be verified** : This circular only **bring to the notice of the field the various judgments of Hon'ble Supreme Court which may be referred for further guidance in individual cases** based on facts and circumstances of each of the case. Past cases should accordingly be decided.

9. Above circular which has been issued after considering the various judgement of Hon'ble Apex Court viz. *M/s. Roofit Industries Ltd, Ispat Industries Ltd., Emco Ltd. & Ultra Tech Cement Ltd.* supra and has finally clarified at para 5 that CENVAT Credit on Goods Transport Agency service availed for transport of goods from the **place of removal to buyer's premises was not admissible.** It also clarifies that the Apex Court has observed that after amendment in the definition of 'input service' under Rule 2(l) of the CENVAT Credit Rules, 2004, effective from 1-3-2008, the service is treated as input service only 'up to the place of removal'. Therefore, I observe that after issuance of this circular dated 08.06.2018, there is no ambiguity on the issue of availment of CENVAT credit of tax paid on GTA service from place of removal to buyer's premise. The appeal hence deserves no merit and is liable for rejection.

10. In view of the above observations, I reject the appeal filed by the appellant.

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

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

उमाशंकर

(उमा शंकर)

केंद्रीय कर, प्रधान आयुक्त (अपील्स)

Date:

Attested

(D.A.Parmar)
Superintendent
Central Tax (Appeals)
Ahmedabad



By R.P.A.D.

To,

M/s. Time Technoplast Limited,

Plot No.9-10,Survey No.173 & 174,Ajanta Industrial Estate,,Near-Nature

Pulse Botanical Village-Iyava,Vasna,Tal-Sanand, Dist-Ahmedabad-382170.

Copy to:

1. The Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner of Central Tax, Ahmedabad - North.
3. The Additional Commissioner, Central Tax (System), Ahmedabad North.
4. The Asstt./Deputy Commissioner, CGST Division-IV, Ahmedabad - North.
- ✓ 5. Guard File.
6. P.A. File

