• आयुक्तालय (अपील-I) केंद्रीय उत्पादन शुल्क *
सातमाँ तल, केंद्रीय उत्पाद शुल्क भवन,
पोलिटेकनिक के पास, आमबाबाडि,
अहमदाबाद – 380015.

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : V2(73)/76,77,78,89,90,100/Ahd-I/2016-17 1250-61
Stay Appl.No. NA/2016-17

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-EXCUS-001-APP-082 to 087-2016-17**
दिनाँक 29.03.2017 जारी करने की तारीख Date of Issue 03/04/2017

श्री उमा शंकर आयुक्त (अपील-I) द्वारा पारित
Passed by Shri. Uma Shanker, Commissioner (Appeal-I)

ग Arising out of Order-in-Original No. **MP-19&20/SUPDT/AR-I/16-17** dated: **17/08/2016** , Order-in-Original No. **MP-21/SUPDT/AR-I/15-16** dated: **17/08/2016** , Order-in-Original No. **MP-01&02/SUPDT/AR-II/16-17** dated: **18/10/2016 & MP-03&04/SUPDT/AR-II/16-17** dated: **10/11/2016** issued by Superintendent.,Div-V ,Central Excise, Ahmedabad-I, Order-in-Original No. **54&55/CX-I Ahd/JC/MK/2016** dated: **30/09/2016** issued by Joint Commissioner ,Central Excise, Ahmedabad-I

ध अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent

AIA Engineering Ltd.
Ahmedabad

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 a 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 अतत नीचे बताए गए मामलों के बारे में पूवोक्त धारा को उप–धारा के प्रथम परन्तुक 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।

(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.

(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।

...2 ...

(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.

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

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 सेंवा 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 .

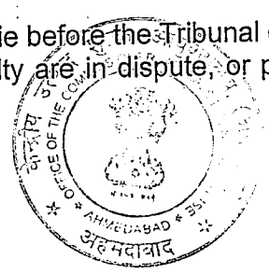
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (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 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

Six appeals have been filed by the appellants as per col.No.(2) of below mentioned table against the Orders-in-Original (hereinafter referred to as "the impugned orders) mentioned in col. No.(2) of the table, passed by the Joint Commissioner of Central Excise, Ahmedabad-III/ Superintendent of Central Excise, AR-I/AR-II, Division-V, Ahmedabad-1 (hereinafter referred to as "the adjudicating authority").

2. Briefly stated, show cause notices were issued to the appellants for recovery of Cenvat credit wrongly taken on (i) Banking and Other financial Services[for short-*BOFS*] (where the services rendered was for entering into forward contracts in relation to foreign exchange broking which is in nature of speculative activities and not an input services); (ii) Legal Consultancy Services [for short-*LCS*] (provided by consultants not based in the country and utilized in relation to the appellant's intellectual Property Rights related disputes outside the country); and (iii) Renting of immovable properties services [for short-*RIPS*] (the immovable property is not the premises of any of the registered unit) etc. Vide the impugned orders, the adjudicating authority has [i] disallowed the credit of input service; and [ii] ordered for recovery of amount with interest and imposed penalty as mentioned at column No.(7) and (4) of the table below respectively. The details of show cause notice, period involved, amount confirmed and penalty imposed in the impugned orders is as detailed below:

S No	Name of the appellant & appeal No.	Impugned order No. & date	Amount involved (Rs.)	Period involved	S CN dated	Input service credit availed on
1	2	3	4	5	6	7
1	AIA Engg Ltd (Unit-4) & 76/Ahd-1/16-17	MP-19/Supdt/AR-I/16-17 dated 17.08.2014	7,289/- 5,000/- Penalty	July-15 To Dec.15	04.04.16	LCS,RIPS
2	AIA Engg Ltd (Unit-10) & 77/Ahd-1/16-17	MP-20/Supdt/AR-I/16-17 dated 17.08.2014	12,706/- 5,000/- Penalty	April-15 To Dec.15	04.04.16	LCS,RIPS
3	AIA Engg Ltd (Unit-12) & 78/Ahd-1/16-17	MP-21/Supdt/AR-I/16-17 dated 17.08.2014	26,264/- 5,000/- Penalty	July-15 To Dec.15	04.04.16	LCS,RIPS
4	AIA Engg Ltd (Unit-13) & 89/Ahd-1/16-17	54 & 55/CX-1/Ahmd/JC/MK/ 2016 dated 30.09.2016	11,51,084/- 5,000/- Penalty	Dec-10 To Oct-13	26.09.14	BOFS, LCS
5	AIA Engg Ltd (Unit-5) & 90/Ahd-1/16-17	MP-01&02/Supdt/AR-II/16-17 dated 18.10.16	7,289/- 5,000/- Penalty	July-15 To Dec.15	04.04.16	BOFS,LCS,
6	AIA Engg Ltd (Unit-6) & 100/Ahd-1/16-17	MP-03&04/Supdt/AR-II/16-17 dated 10.11.16	12,928/- 5,000/- Penalty	Oct-14 To Dec.15	04.04.16	BOFS, LCS.

3. Being aggrieved, the appellants have filed the instant appeals, *inter alia*, stating that:

- The service viz., banking and financial services have been used by the appellant for "inward remittances" and "outward remittances" made by the bank for the exported goods; that the appellant entered into forward contracts with the bank to cover the risk of foreign exchange fluctuation between the overseas currencies and the local currency, which may otherwise cause immense loss to the appellant.
- The services are received in relation to the activities relating to their business and if they did not avail such services, the appellant would not been able to export the goods manufactured by them, therefore, such services are integrally connected to the appellant's business and are input services within the meaning of the definition given under Rule 2(1) of the Cenvat Credit Rules, 2004; that since the Banking and Financial is time and again considered as input service by various CESTAT, the adjudicating authority has denied by stating that the service were not integrally connected to their manufacturing activities. Therefore, the impugned order is contrary to the settled legal position. The appellant cited various citations in support of their arguments.
- The denial of credit on legal consultancy service is also wrong as such services were integral to the protection of patent of goods manufactured by the appellant; that if the patent infringement suit would not have been defended by the appellant, sales in the USA market would not be possible; that the services utilised in relation to the patent infringement case in USA were in order to protect their market and on- going sales, which was directly related to their business; that the Service tax was paid by the appellant on reverse charge mechanism and considering the said facts, the view taken by the adjudicating authority that defending the patent suit had no bearing on the manufacturing activities is baseless.
- The Renting of Immovable Property service availed by them was in relation to the rented godown for storage of inputs and the service provider has paid service tax on the godown as service provider; that since the storage of inputs is integral part of their manufacturing activities, they are entitled to avail the credit on service tax paid towards renting of immovable property; that the appellant had declared such premises taken for rent for storage of inputs to the service tax authorities, thus the denial of credit is not sustainable.
- The Commissioner (Appeals) has denied the credit in respect of Banking Service and Consultancy service vide OIA dated 12.08.2015 which is devoid of merits: that the credit such service are available in view of various case laws; the Commissioner (Appeals) has allowed credit of such renting of immovable property for earlier period, vide his order dated 12.08.2015; that the adjudicating authority has not considered the said decision while passing the impugned order.
- There is no justification in imposition of penalty in law as well as in facts, as in the facts of the present case, there was no allegation of any malafide intention to evade payment of tax.

4. A personal hearing in the matter was held on 15.03.2017. Shri Shilpa P Dave, Advocate appeared for all the six appeals and reiterated the grounds of appeal and submitted additional submissions.

5. I have carefully gone through the facts of the case and submissions made by the appellants in the appeal memorandum as well as at the time of personal hearing. The limited issue to be decided in the instant case is relating to eligibility of input service

credit on (i) Banking and Financial Service; (ii) Legal Consultancy Service; and (iii) Renting of Immovable Property Service.

6. (l) "input service" means any service,-

(i) used by a provider of taxable service for providing an output service or

(ii) used by the manufacture, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products from the place of removal,

and includes services used in relation to setting up, modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, and security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal;

7. The above definition of 'input service' fixes the meaning of the expression and the services used by the manufacturer, are required to have a nexus with the manufacture of the final product and clearance of the final product upto the place of removal. The services which are enumerated in the inclusive clause of the said definition are also required to have been used up to "place of removal". Therefore, only activities relating to business, which were taxable services and used by the manufacturer in relation to the manufacture of final product and clearance of the final product up to the place of removal would be eligible as 'input services'. After the final products are cleared from the place of removal, there would be no scope for subsequent use of service to be treated as input service. Services beyond the stage of manufacturing and clearance of the goods from the factory cannot be considered as input services. Thus, for the purpose of ascertaining the admissibility of CENVAT credit on services, the nature of service availed should be in consonance with the above parameters. I observe that the issue involved in the instant case has already been decided by me vide OIAs dated 28.10.2016 and 25.01.2017 . Keeping in view of the facts, I would like to discuss the issue service wise.

(i) Banking and other financial services:

8. The adjudicating authority has denied the input service credit on the ground that the service rendered was for entering into forward contracts in relation to foreign exchange broking which is in **nature of speculative activities**, thus not an input services. On the other hand, the appellants have contended that the said services have been used by the appellant for "inward remittances" and "outward remittances" made by the bank for the exported goods; that they entered into forward contracts with the bank to cover the risk of foreign exchange fluctuation between the overseas currencies and the local currency, which may otherwise cause immense loss to the appellant. Now, the question arises, whether such activities, as contended by the appellants, is within the ambit of the definition of "input service" or otherwise. It is the contention of the appellants that as they export their goods substantially, it was very much necessary for them to enter into

contracts with the service provider i.e Bank to prevent losses arising from currency fluctuation/variation; that the said service is required to be treated as in relation with their business activities as their input service and therefore, they are entitled for Cenvat credit on such service being a input service. It is observed that the remittance is a charges on payment received i.e inward remittance from the foreign buyers and payment sent i,e outward remittance to foreign suppliers through the bank and forward contract. The activity of forward contract and the remittances of inward/outward payment have not directly or indirectly in relation to the manufacture/clearance of goods or with the other activities viz. accounting, auditing, financing, etc as described in the definition of "input service" upto the place of removal.

9. While deciding this issue, the adjudicating authority has relied on various case laws viz.(i) M/s Ultratech Cement Ltd reported at 2010 (260) ELT 369 (Bom); (ii) M/s Hindustan National Glass and Industries reported at 2013 (288) ELT 408 (Tri-Del); (iii) CCE Chennai V/s Sundaram Brake Linings reported at 2010 (19) STR 172 (Tri-Chennai); (iv) CCE Nagpur Vs Manikgarh Cement Works reported at 2010 (18) STR 275 (Tri) ; and (v) Vandana Global -2010 (253) ELT 440 (Tr-LB) and held that in the instant case, the Cenvat credit on Banking and Other financial Services is not admissible to the appellant as the services rendered was for entering into forward contracts in relation to foreign exchange broking which is in nature of speculative activities and not an input services. The appellants have relied on Hon'ble Tribunal's decision in the case of [i] M/s Vishal Malleables Ltd reported at 2013 (287) ELT (Tri-Ahd); [ii] Jeans Knit -2011 (21) STR) 460; [iii] M/s Meghmani Dyes & Intermediates Ltd-2013 (32) STR 671. The appellant has stated that in these decisions, the Hon'ble Tribunal has allowed credit of the service tax paid on bank charges. The case laws cited by the appellants are not applicable to facts of the case discussed in above para. Therefore, in view of above discussion and the decision already taken vide OIA dated 28.10.2016 and 25.01.2017, I uphold the decision of adjudicating authority in respect of confirmation of demand with interest and imposition of penalty.

(ii) Legal Consultancy Service.

10. I observe that the appellants have availed the Cenvat credit on Legal Consultancy service in respect of service obtained at USA for the protection of patent of goods manufactured by them. It is the contention of the appellants that if the patent infringement suit would not be defended, the repercussion would be fatal and they would not be in a position to sell their goods in the overseas market. The appellant argued that they had discharged service tax in the reverse charge mechanism. I observe that in the instant case, the issue to be considered is as to whether the legal service obtained at abroad can be termed as "input service" on their business activities and falls within the ambit of the definition of input service. The adjudicating authority, in the impugned order stated that there is no reason to construe that defending a patent infringement in the USA can have any bearing on the manufacturing business of the appellant. He also stated

that no evidence was adduced by the appellants before him to show that such a law suit has any integral nexus with their business of manufacturing activity.

12. The definition of input service given in Rule 2(l) of Cenvat Credit Rules, 2004 clearly covers that "any service used by a provider of taxable service for providing an output service" and specifically includes the "legal services". Further, the issue relating to availment of Cenvat credit on "Legal Consultancy Service" as "input service" is no longer *res integra*, in view of various judgment viz., (i) in the case of M/s HCL Comnet System & Service Ltd reported at 2015 (37) STR 716 (All); (ii) CCE Vs HCL Technologies reported at 2015 (40) STR 1124 (Tri-Del); (iii) Golden Tobaco Ltd reported at 2013 (30) STR 594 (Tri) ; and M/s Delphi Automotive System P Ltd reported at 2014 (36) STR 1089 (Tri-Del) etc. In all these judgments, it has been held that the said service is covered in the definition of "input service. In the instant case, as stated above, the legal service was obtained at USA and paid service tax under reversed mechanism. The adjudicating authority stated that the appellant has not adduced any evidence to establish that the service was availed only in nexus with the business of manufacturing/clearance of their export goods. The onus to fulfill the requirement relating to the claim clearly rests on the appellants and it was in the discharge of that onus that they engaged such services only for protection of patent goods manufactured by them and does not extend the said service in any other matter. It is an admitted fact that they failed to submit any such evidence before the adjudicating authority. I further observe that they also not tried to adduce any such proof before the appellate authority though they have enough time. Further, this issue has already decided by vide OIA dated 28.10.2016 and 25.01.2017, wherein the credit was denied. In the circumstances, there is no reason to construe that the said service availed by the appellant was bearing only on the manufacturing business of their export goods. In the circumstances, I do not find any merit in the argument of the appellants. Therefore, I uphold the decision of the adjudicating authority in respect of confirmation of demand with interest and penalty imposed.

(iii) Renting of Immovable Property:

13. I observe that in my earlier OIA dated 25.01.2017, it was held that the storage of input and final products is an integral part of manufacturing activity and the services related to such activities fall within the ambit of the definition of input service. However, the issue was remanded to the adjudicating authority as I observed that the appellant has used the rented premises taken by group of AIA Engineering Ltd and used for job works, storage of inputs as well as finished goods etc. and no evidence was furnished by them with regard to utilization of the said premises and taken the credit according to ISD. In this regards, the appellants have furnished copy of lease agreement entered with the service providers which shows that the service providers were charging rent towards sheds which were being utilized by the appellant group of company Further, they have furnished a copy of challan with details for distribution of credit received on input

services under Rule 4A(2) of Service Credit Rules, 1994. Since, the storage of input and final products is an integral part of manufacturing activity and the services related to such activities fall within the ambit of the definition of input service and the appellants have furnished evidence that they are taking the credit according ISD, I do not find any merit for denying the credit availed in this regard. Accordingly, I allow the same.

14. In view of above discussions, I uphold the decision of adjudicating authority in respect of input service credit on (i) Banking and other financial service; (ii) Legal consultancy services and in respect of credit availed on Renting of Immovable Property, I allow the same. In the circumstances, the appeals mentioned at Sr.No.4 to 6 above mentioned table are rejected and the appeals mentioned at Sr.No.1 to 3 of the said table are partially modified. The penalty imposed under Rule 15(1) of CCR read with clause (a) or (b) of Section 11 AC of the Central Excise Act is accordingly modified in respect of appeal partially modified. All the six appeals filed by the appellant stand disposed of in above terms.

(उमा शंकर)
आयुक्त (अपील्स - I)
Date:29/03/2017

Attested

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

BY R.P.A.D.
To,

(1) M/s AIA Engineering Ltd (Unit-12), Block No.129, GVMM. Odhav, Ahmedabad

(2) M/s AIA Engineering Ltd (Unit-6) Plot No.231-232, GVMM, Odhav, hmedabad

(3) M/s AIA Engineering Ltd (Unit-5) Plot No.161-163,GVMM, Odhav, Ahmedabad

(4) M/s AIA Engineering Ltd (Unit-13) Plot No.14, Girnar Scooter Comjpound, Odhav Road,Odhav, Ahmedabad

(5) M/s AIA Engineering Ltd (Unit-10) Block No.122,GVMM, Odhav, Ahmedabad

(6) M/s AIA Engineering Ltd (Unit-4) Block No.81-82,GVMM, Odhav, Ahmedabad

Copy to:

1. The Chief Commissioner of Central Excise Zone, Ahmedabad.
2. The Commissioner of Central Excise, Ahmedabad-I.
3. The Joint Commissioner, Central Excise,Ahmedabad-1
4. The Additional Commissioner,(Systems) Central Excise, Ahmedabad - I
5. The Dy./Asstt. Commissioner, Central Excise, Division –V, Ahmedabad-I
6. The Superintendent, Central Excise, AR-1/II, Division-V, Ahmedabad-1.
7. Guard file
8. P A file.