

 सत्यमेव जयते	केंद्रीय कर आयुक्त (अपील)	
O/O THE COMMISSIONER (APPEALS), CENTRAL TAX,		
केंद्रीय कर भवन, 7 th Floor, GST Building, Near Polytechnic, सातवीं मंजिल, पॉलिटेक्निक के पास, आम्बावाडी, अहमदाबाद-380015 Ambavadi, Ahmedabad-380015		
☎ : 079-26305065		टेलीफैक्स : 079 - 26305136

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : V2(ST)/106,116,143,144/Ahd-I/2017-18
Stay Appl.No. NA/2017-18

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-EXCUS-001-APP-371to374-2017-18
दिनांक Date : 27-02-2018 जारी करने की तारीख Date of Issue 20/3/2018

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

ग Arising out of Order-in-Original No. CGST/Div-VIII/Ref/06/17-18 दिनांक: 16/8/2017,
CGST/WS08/Ref-14/Png/17-18 दिनांक: 23/8/2017, CGST/ WS08/Ref-45&46/Png//17-18 दिनांक:
11/10/2017 issued by Assistant Commissioner, Central Tax, Ahmedabad-South

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
Cimpres Technologies Pvt. 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 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 पूर्वोक्त 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 प्रक्रिया 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।

(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 मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित हैं।

(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 ड्यूटी क्रेडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित दो समय पर या बाद में वित्त अधिनियम (सं.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 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. 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 रुपये या उससे कम हो तो रुपये 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.

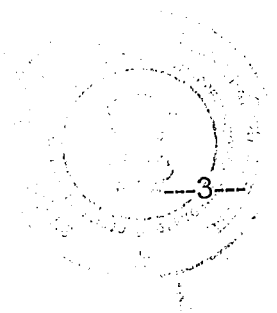
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(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) 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 मेटल हास्पिटल कम्पाउण्ड, मेघानी नगर, अहमदाबाद-380016

(a) 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.



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 Appellate 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।

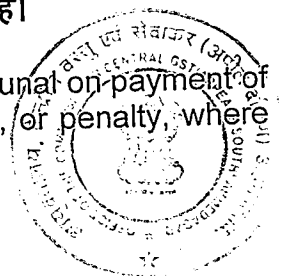
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT.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



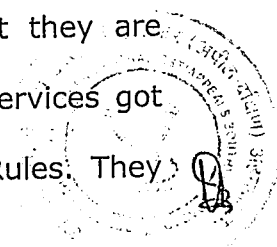
ORDER IN APPEAL

M/s. Cimpres Technologies Pvt. Ltd. (erstwhile known as M/s. Vistaprint Technologies Pvt. Ltd.), Ground Floor, B Wing, Commerce House 5, Corporate Road, Prahladnagar, Ahmedabad (hereinafter referred to as the 'appellants') have filed the present appeals against the following Orders-in-Original (hereinafter referred to as the 'impugned orders') passed by the Assistant Commissioner, CGST, Division-VIII, Ahmedabad (South) (hereinafter referred to as 'the adjudicating authority') in the matter of refund claim of unutilized credit filed by the appellants;

Sr. No.	OIO No.	OIO date	Amount of refund claimed (₹)	Amount of refund claim sanctioned (₹)
1	CGST/Div-VIII/Ref/06/17-18	16.08.2017	33,34,717	23,57,800
2	CGST/WS08/Ref-14/PNG/17-18	23.08.2017	38,11,151	28,74,389
3	CGST/WS08/Ref-45/PNG /17-18	11.10.2017	35,54,409	32,76,588
4	CGST/WS08/Ref-46/PNG /17-18	11.10.2017	39,94,017	35,74,832

2. The facts of the case, in brief, are that the appellants filed refund claims under Notification 27/2012-CE (NT) dated 18.06.2012 read with Rule 5 of Cenvat Credit Rules, 2004 for refund of unutilized credit of ₹ 33,34,717/-, ₹ 38,11,151/-, ₹ 35,54,409/- and ₹ 39,94,017/- on 16.03.2017 and 14.07.2017 for the periods April to June 2016, July to September 2016, October to December 2016 and January to March 2017 respectively. Refund claims amounting to ₹ 9,76,917/-, ₹ 9,36,762/-, ₹ 2,77,821/- and ₹ 4,19,185/- respectively, were rejected vide the above mentioned impugned orders on grounds that these services are not utilized in core area of export.

3. Being aggrieved with the impugned order, the appellants preferred the present appeals before. While arguing their case, the appellants informed me that they were denied the opportunity of being heard as the impugned orders were passed without issuance of show cause notice. They further contended that they are entitled for the refund claims on the ground that the specified input services got covered under the definition of input services as per Cenvat Credit Rules. They

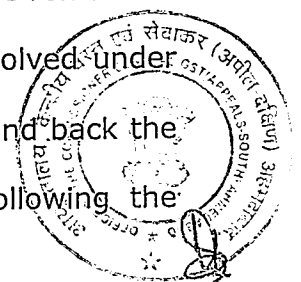


argued that the eligibility of Cenvat credit can be challenged at the time of availment and not at the time of disposal of refund claim. It was further claimed by the appellants that the impugned orders were passed on the basis of mere assumption and inferences. Thus, they concluded that they are liable for the claim of refund as the input services used by them were utilized for providing output services and hence covered under Rule 2(1) of the Cenvat Credit Rules.

4. Personal hearing in the case was granted on 31.01.2018. Smt. Khushboo Kundalia and Shri Hitesh Mundra, both Chartered Accountants, appeared before me and reiterated the grounds of appeal. Smt. Kundalia submitted additional citation in their favour. She requested to remand the cases back as no show cause notices were issued to them.

5. I have carefully gone through the facts of the case on records, grounds of appeal in the Appeal Memorandum and oral submissions made by the appellants at the time of personal hearing.

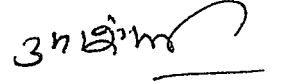
6. The appellants have claimed that the cases were decided without the issuance of show cause notice and without giving them the benefit to be heard in person. Thus, as they were devoid of the natural justice, they have requested before me, during the course of personal hearing, to remand the case back to the adjudicating authority as that would enable them to put forward additional submissions before the adjudicating authority. Their request sounds logical to me as everyone has the right to represent himself/herself and natural justice should not elude anyone. Natural justice is the essence of fair adjudication, deeply rooted in tradition and conscience, to be ranked as fundamental. Also, the appellants have assumed that the impugned orders were passed on the basis of assumptions and inferences. Their grievance, in this regard, sounds logical as in the case of any perplexity on the part of the adjudicating authority, while deciding then case, the absence of the appellants creates a question as to how the confusions could have been solved by the adjudicating authority. The adjudicating authority seems to be in a hurry to decide the cases in absence of the appellants. Thus, the cases need to be remanded back so as to ensure that the grievances of the appellants could be solved under the principle of natural justice. In light of the above discussion, I remand back the matters to the adjudicating authority to decide the cases afresh following the



principle of natural justice. The appellants are also directed to provide all sort of assistance to the adjudicating authority by providing all required documents during the proceeding for which the cases have been remanded back.

7. अपीलकर्ता द्वारा दर्ज की गई अपीलों का निपटारा उपरोक्त तरीके से किया जाता है।

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



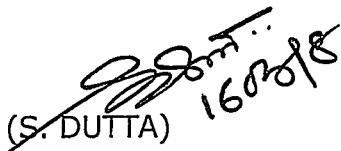
(उमा शंकर)

CENTRAL TAX (Appeals),

AHMEDABAD.



ATTESTED

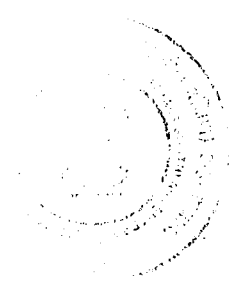


(S. DUTTA) 16/02/18

SUPERINTENDENT,

CENTRAL TAX (APPEALS),

AHMEDABAD.



To,

M/s. Cimpress Technologies Pvt. Ltd,
Ground Floor, B Wing, Commerce House 5,
Corporate Road, Prahladnagar,
Ahmedabad-380 051.

Copy to:

1. The Chief Commissioner, Central Tax, Ahmedabad Zone, Ahmedabad.
2. The Commissioner, Central Tax, Ahmedabad (South).
3. The Assistant/Deputy Commissioner, CGST, Division-VIII, Ahmedabad (South).
4. The Assistant Commissioner, (System) Central Tax, Ahmedabad (South).
5. ~~Guard File.~~
6. P.A. File.

