





**:: ORDER IN APPEAL ::**

M/s. Madhu Silea Pvt. Ltd., DU-IV Plot No. 147, Vazej, Bhamburda (hereinafter referred to as 'the appellant') filed an appeal against the Order-In-Original No. UH/11/11/2013 dated 26.02.2017 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner, Central Excise Division, Surandranagar (hereinafter referred to as 'the lower adjudicating authority')

2. Briefly stated the facts of the case are that scrutiny of records of the appellant for the period from October, 65 to December, 2013 revealed that the Appellant had availed Service Tax credit in respect of various services, which were not admissible as per the definition of input service as provided under Rule 2(i) of the Central Credit Rules, 2004 (hereinafter referred to as 'the Rules') as Architect's Services, Port Services, Airport Services, Commercial and Industrial Construction Services, and Works Contracts Services had been specifically excluded from the purview of availment of Central credit. If these services are used for providing (i) Construction of a building or a civil structure or a part thereof, and (ii) Laying of foundation or raising of structures for support of capital goods. The Show Cause Notice also alleged that Catering Service and Mandap Service were beyond scope of the definition of 'input service' as provided under Rule 2(i) of the Rules and hence Central credit on these services was not available to the appellant.

2.1 The Show Cause Notice also alleged that as per the Negative List of input services if the services are payable for personal consumption of employees then the same is ineligible for availment of input service.

2.2 Since the appellant had availed Central credit which was not as per the provisions of the Rules, Show Cause Notice was issued to the appellant, which was adjudicated vide the impugned order whereby the demand of Central credit of Rs. 40,74,991/- was confirmed under Rule 14 of the Rules read with Section 11(A) of the Central Excise Act, 1944 (hereinafter referred to as 'the Act'), along with interest under Rule 14 of the Rules read with Section 11AA of the Act and penalty was imposed under Rule 15 of the Rules. Rs. 10,07,108/- paid by the appellant in respect of Bill No. RA-04 dated 17/12/2013 vide Challan No. 50772 dated 20.03.2014 was appropriated against the demand confirmed.

*(Signature)*

3. Being aggrieved with the impugned order, the appellant preferred the present appeal, inter alia contending as under



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3.1 The appellant contended that the lower adjudicating authority has wrongly concluded that the Canteen service was received for personal consumption of the employees and therefore, credit not admissible. That the credit cannot be denied on Canteen Services as the canteen is situated within the factory premises and they were providing Canteen services as it is being done as per the Factories Act, 1948.

3.2 Regarding Denial credit of Service Tax on invoices of M/s. Archivista Engineering Projects Pvt. Ltd. the Appellant contended that the lower adjudicating authority has wrongly denied Cenvat credit by holding that the name of project was not provided to and it was in relation to the manufacture of the final products in absence of details; that M/s. Kirav Engineering provided services pertaining to fabrication, that M/s. U.T. Associates had carried out fabrication of pipelines at sea and M/s. HVM Equipments had carried out erection of elevators used for lifting material and therefore Cenvat credit is admissible; that M/s. King Engineers were providing service of bolt fixing on bolts supplied by the appellant which has been ignored by the lower adjudicating authority; that M/s. Sansash Insulations were providing services pertaining to insulation in the factory; that M/s. Vibrotron provided services of balancing of fan in SD plant; that canteen services were provided as per statutory provisions of the Factories Act, 1948 and therefore, credit was admissible on it in light of the decisions in the cases of M/s. Mahindra and Mahindra reported as 2010 (39) STR 266 (T-Munir) and M/s. Cerna Electric Lighting Products India P. Ltd. reported as 2015 (37) STR 754 (T-Munir); that regarding services provided by M/s. Rana Engineering, M/s. Sharma Associates and M/s. Shubham Udyog, the lower adjudicating authority has wrongly held that relevant invoices were not submitted by the appellant; that the Department should have called for invoices instead of proceeding to decide the case and violating the principles of natural justice; that services received from M/s. Manavir Mandap Services was in relation to religious puja for improvement of business of the appellant; that services received from M/s. Concepts Motors and M/s. Eternal Motors Pvt. Ltd. were eligible for Cenvat credit as the vehicles were registered in the name of the Appellant; that services received from M/s. Bhoomi Enterprises were in relation to loading of sand by JCB; that services provided by M/s. EPP Composites Pvt. Ltd. were not in relation to their work and hence credit was admissible; that Cenvat credit of Service Tax in respect of M/s. Top 3 Hotels Hosana and M/s. Hotel White Rose has been wrongly denied as the same were meant for providing stay facility to the professional persons visiting their factory for business purpose; that the activity relating to expansion of existing business cannot be considered to be covered under the exclusion clause of the definition

of Rule 2(i) of the Rules, that there is no suppression of fact with intent to evade payment of duty and hence, penalty under Rule 15(2) of the Rules was not imposed on them. That in view of above submissions Cenvat credit is admissible to them and interest not payable and penalty not maintainable.

4. Personal hearing in the matter was attended by Sri H. R. Datta, Consultant wherein he, inter alia, reiterated the grounds of appeal and submitted a detailed written submissions showing in detail that the services have been used for fabrication of parts of plant and machinery; that these services are essentially required to manufacture their final products and hence Cenvat credit is admissible. No one appeared from the Department despite personal hearing notices issued to the Commissioner.

4.1 The appellant also submitted written PH submissions stating that M/s. Sa Geotechnical Lab provided them services of testing the material of their clients prior to consumption; that the material was meant to be utilized for new project i.e. new project building and therefore, Cenvat credit is admissible, that M/s. Anshika Engineering Projects Pvt Ltd were providing services relating to designing, drawing etc. as well as Project Management relating to setting up new factory premises at Plot No. 147, G.I.D.C. Vantaj, therefore credit is admissible, that M/s. Kiray Engineering were providing services in relation to fabrication of tube bundle, alloys sheet and tube bending work on the basis of labour charges and therefore services were not in relation to civil construction work and therefore, Cenvat credit is available; that M/s. R. K. Caterers provided Catering Service in the canteen of the Appellant and Canteen is provided by the Appellant under the obligation of the provisions of the Factory Act, 1948, therefore the Credit is admissible to the Appellant and relied upon Para D 15 of the Order in Appeal No. D/V EXCUS 001 APP 073/2017-2018 dated: 27.12.2017, that M/s. Rane Engineering and Fabrication provided them services as per Order No. MSPL/006/32/2013-2014 which they were required to carry out erection of 20 Nos. of filter press in FIDA in Sil Plant as there was no civil construction involved and therefore, Credit is admissible and in this regard the Appellant relied on Para 37 of Order in Appeal No. D/V EXCUS 001-APP-073/2017-2018 dated: 27.12.2017, that M/s. Mainair Mandap Service provided services in relation to conducting meeting for business of Company and therefore such services are used indirectly in the business of the company; that M/s. Concept Mulera India Pvt Ltd provided services of vehicle repairing and servicing and such vehicles were registered in the name of the appellant hence, credit is admissible; that M/s. U.T. Associates provided services as per Order No. MSPL/009/38/2013-2014 pertaining to fabrication and erection of MS Tank and Vessels, Pre-Fabrication 85-304 Sil C/S and Cladding as per measurement etc.



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which did not require any Civil Construction Work and therefore Credit is admissible on such services; that M/s. Bharati Enterprise provided the Service of Levelling or Level by JCB Machine which cannot be considered as CONSTRUCTION SERVICE and therefore the Credit is admissible; that M/s. Shubham Ldyng provided services as per Order No. MSPLTD/CI/AG/MSPL/300 pertaining to Fabrication and Testing of Tube Bundle, Tube Sheet Drilling and Fabrication of Supporting and Transport Structure etc., and hence, Credit is admissible; that M/s. E.P.T Composite P. Ltd. provided the services of 3 MM FRP Lining Work in relation to erection and commissioning and hence, credit is admissible; that M/s. H.M.V Equipments provided services as per Work Order No. MSPL/MSPL/MSPL/0020/2013-2014 in relation to Erection and Commissioning of Coal handling Conveyor System and hence, Credit is admissible; that M/s. General Motors P Ltd provided service in relation of servicing and repairs of the vehicles and Vehicles were registered in the name of the appellant, hence credit is admissible; M/s. Shanti Associates provided services in relation to Fabrication and Erection as per work Order No. MSPL/Project-300/30/2013-2014, and hence, Credit is admissible; that M/s. King Engineer provided services in relation to Fixing of Anchor Bolt for installing and fixing machinery in Plant and hence Credit is admissible; that M/s. Sanjeev Insulation provided services of Insulating of Pipe Line through which the steam was passed and if the steam passed through the pipe without insulated it could cause major accident as well as reduce the Shelf Life of pipe and therefore, the Notion is of the view that the Services of Insulating Integral services which and therefore, the Credit is admissible; that M/s. Morelect provided services in relation to Vibration Analyse and Dynamic Balancing of Fan of HD Plant installed for manufacturing of the excipients (tablets) and hence Credit is admissible; that M/s. Top 3 Lords Resort provided accommodation services to the person visiting factory for supervising plant and manufacturing activity and therefore credit is admissible and that M/s. Informar Coastal Hydrolix P. Ltd. provided services in relation to marine study report for disposal of treated effluent of the factory which is required to be submitted to Gujarat Pollution Control Board as per law and therefore, credit is admissible.

#### Findings:-

5 I have carefully gone through the facts of the case, the impugned order, the grounds of appeals, written and oral submissions made by the appellant. The issue to be decided in the instant appeal is whether the impugned order denying Central credit of Service Tax Rs. 43,74,881/- paid on various services on the ground of non-compliance of Rule 2(1) of the Rules is correct or not.



6. The appellant has submitted that availment of Credit credit of Service tax paid on various input services has been wrongly disallowed to them, even when Purchase orders and relevant invoices indicate that they have not carried out any civil construction or any work in laying of foundation or making of structures for support of capital goods. I need to examine admissibility of Credit credit availed on basis of work orders and/or invoices issued by service providers on the merits of each case. Let's examine work orders and description given in the relevant invoices / Bills etc. one by one to come to conclusion in each case.

6.1 Illustrative scanned copy of invoice in respect of M/s. Sai Geotechnical Lab indicates description of the services provided as below :-

The image shows a scanned copy of an invoice from Sai Geotechnical Lab. The invoice includes a header with the company name 'SAI GEOTECHNICAL LAB' and 'SINCE 1983'. It features a table with columns for 'Sl. No.', 'Description', 'Qty', 'Rate', 'Total', and 'Amount'. There are handwritten annotations and stamps on the invoice, including a date stamp '2017 APR 26' and a signature 'Sai Geotechnical Lab'. The table contains several rows of data, with some handwritten notes in the 'Description' column such as 'Foundation' and 'Retaining Wall'.

Sl. No.	Description	Qty	Rate	Total	Amount
1	Foundation	10	100	1000	1000
2	Retaining Wall	5	200	1000	1000
3	...	...	...	...	...

The description provided in the aforesaid invoices establish that services have been provided for checking of strength of (soil/soil concrete, T.M.) etc, which is nothing but directly related to Civil construction and therefore, General credit in respect of invoices issued by M/s. Sa. Geotechnical Lab Ltd under the exclusion clause and General credit of Rs. 7 517/- is not available to the appellant under Rule 2(f) of the Rules.

6.2 Illustrative scanned copy of Tax Invoice of M/s. Anshika Engg. Projects Pvt. Ltd. indicates description of services provided as below :-

**ANSHIKA ENGINEERING PROJECTS PVT. LTD.**  
 Plot No. 10, Sector 10, Gurgaon, Haryana  
 Tel: 01299 221111, 01299 221112  
 Email: anshika@anshikaengg.com

**To:** M/s. Anshika Engineering Projects Pvt. Ltd.  
 Plot No. 10, Sector 10, Gurgaon, Haryana

**From:** Sa. Geotechnical Lab Ltd  
 Plot No. 10, Sector 10, Gurgaon, Haryana

**Bill No.:** ANS/10/2017  
**Invoice Date:** 10/10/2017

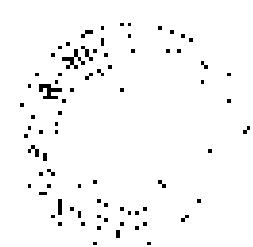
Sl. No.	Description	Quantity	Rate	Amount
1	CHECKING OF STRENGTH OF CONCRETE, T.M.	1	7517.00	7517.00
<b>Total</b>				<b>7517.00</b>

**PAID**

**ANSHIKA ENGINEERING PROJECTS PVT. LTD.**

On going through the description of services provided in invoice, I find that services provided were in relation to the engineer of Civil work. Therefore,

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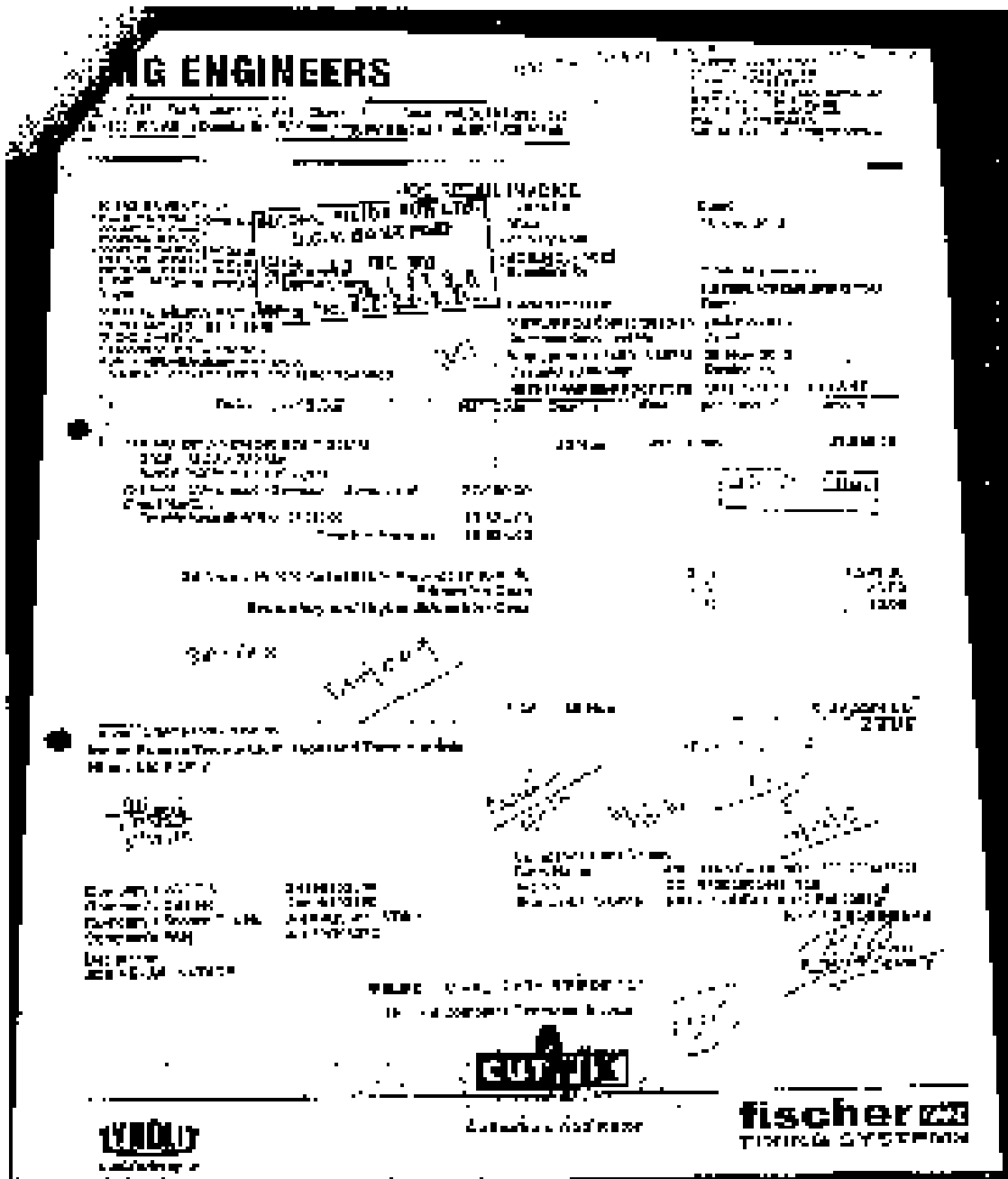




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I hold that Convat credit in respect of invoices issued by M/s. Architects Engineering Projects Ltd. fall under the exclusion clause and Convat credit Rs. 5,15,690/- is not available to the appellant under Rule 2(i) of the Rules.

5.3 Scanned copy of invoice of M/s King Engineers, Vadodra indicates description of service provided as below :-



The above scanned invoice submitted by the appellant clearly indicates that it is for providing of Civil Construction work in industrial construction, which has no relation with fabrication of plant and machinery and hence Convat credit of Rs. 1,00,000/- is not available to the appellant as the services received fall under the exclusion clause under Rule 2(i) of the Rules.

5.4 Scanned copy of Bill of M/s. Sharma Associates, Dist. Dahanu (Kshtr. IIP



indicates description of the service provided as below :

SEPT 2017 TO NOV 2017

## SHARMA ASSOCIATES

PUNJAB & HARYANA

11, GATEWAY ROAD, PUNJAB, INDIA

Tel: 011-26101111

Fax: 011-26101112

E-mail: sharma@sharmaassociates.com

Date: 10/7/2018

Sl. No.	Description of Work	Qty	Unit	Rate	Amount
1	Fabrication & Erection of Piping	1000	sq. ft.	12.74	12740.00
2	Erection & Alignment of Tank	1	no.	5000.00	5000.00
3	Erection of 1000 sq. ft. Tank	1	no.	9300.00	9300.00
4	Other workman's hand				3000.00
5	Material				1950.00
6	Transportation				200.00
7	Insurance				100.00
8	Profit				1000.00
<b>Total</b>					<b>31390.00</b>

Total Amount: Rs. 31,390/-

For and on behalf of the Contractor

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Designation: \_\_\_\_\_

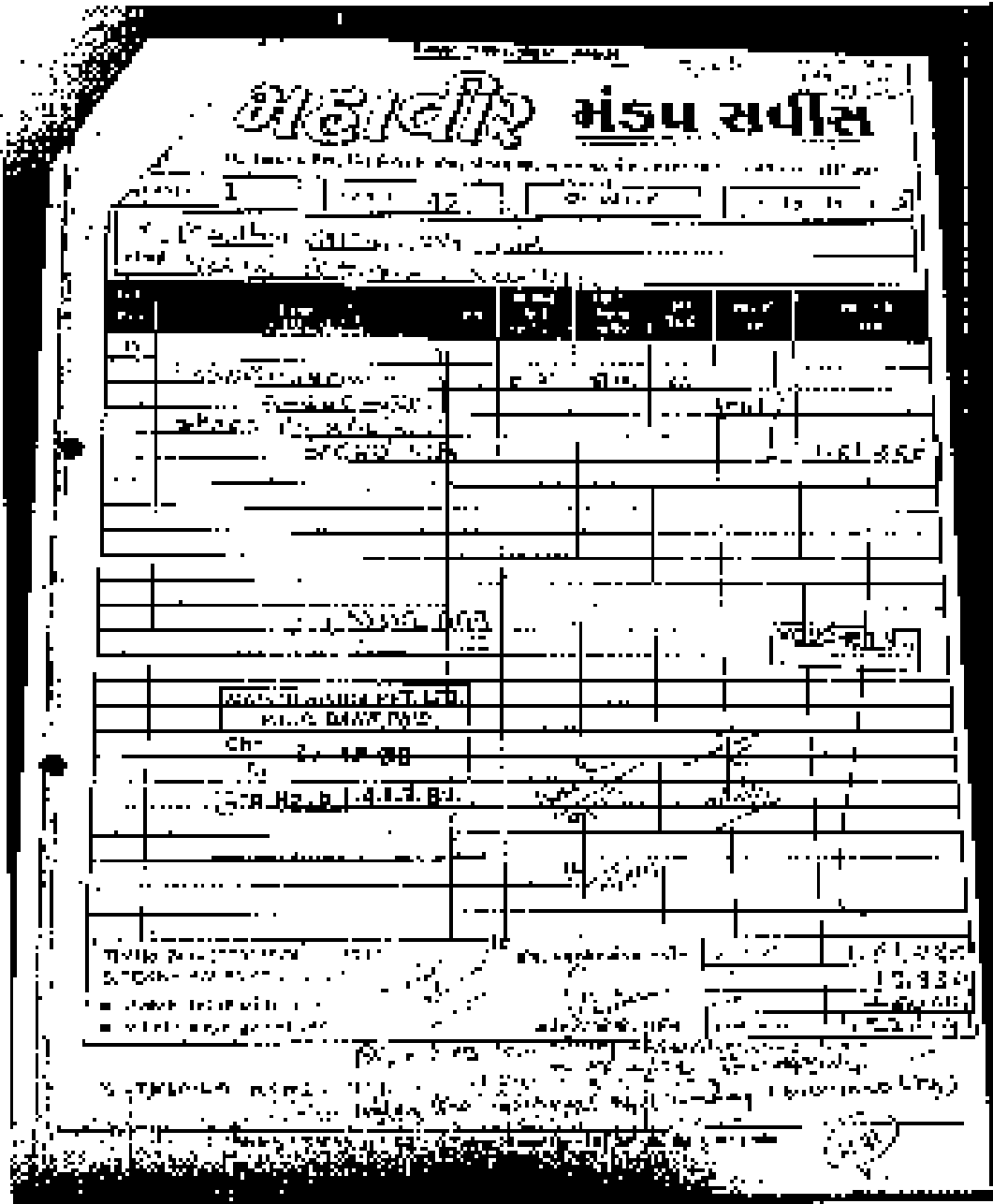
Date: 10/7/2018

Place: \_\_\_\_\_

No work order has been provided in respect of this service provider however, the above scanned copy of Bill submitted by the appellant clearly indicates that it is for providing of Fabrication and Erection of Piping Pump etc. pertaining to plant and machineries and hence, Govt. Credit of Rs. 19,853/- is available to the appellant as the services do not fall under the exclusion clause under Rule 2(i) of the Rules.

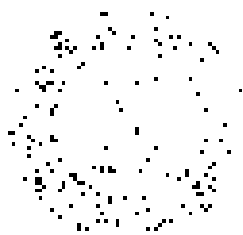


indicates description of service as shown below :-



The relevant bill indicates that the services of Mahar Mandap services were for brooking of Mandap / structure related services which the appellant contended that the mandap was for undertaking religious puja. However performing Puja has no relation with fabrication of plant and machinery in the considered view and hence Central credit of Rs. 19,834/- is not available to the appellant.

6.6 Scanned copy of invoice of M/s. Subham Ldyng. Pure indicates description of service provided as to ow:





# SHUBHAM UDYOG

Work Order No. 1000/2002/17  
 Date: 20.12.2002  
 To: M/s. Eternal Motors Pvt. Ltd.,  
 101, Sector-14, Gurgaon, Haryana

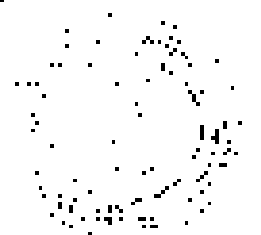
Work Order No. 1000/2002/17  
 Date: 20.12.2002  
 To: M/s. Eternal Motors Pvt. Ltd.,  
 101, Sector-14, Gurgaon, Haryana

Sl. No.	Description	Qty	Rate	Amount
1.	Labor charges only			
2.	Material charges only			
3.	Transport charges only			
4.	Provision of Transport of Tube	1000	1000	1000000
5.	Provision of Transport of Tube	1000	1000	1000000
6.	Provision of Transport of Tube	1000	1000	1000000
7.	Provision of Transport of Tube	1000	1000	1000000
8.	Provision of Transport of Tube	1000	1000	1000000
9.	Provision of Transport of Tube	1000	1000	1000000
10.	Provision of Transport of Tube	1000	1000	1000000
11.	Provision of Transport of Tube	1000	1000	1000000
12.	Provision of Transport of Tube	1000	1000	1000000
13.	Provision of Transport of Tube	1000	1000	1000000
14.	Provision of Transport of Tube	1000	1000	1000000
15.	Provision of Transport of Tube	1000	1000	1000000
16.	Provision of Transport of Tube	1000	1000	1000000
17.	Provision of Transport of Tube	1000	1000	1000000
18.	Provision of Transport of Tube	1000	1000	1000000
19.	Provision of Transport of Tube	1000	1000	1000000
20.	Provision of Transport of Tube	1000	1000	1000000
Service Tax No: 025-576483718				
TOTAL				10000000

Rs. 10,00,000/- (Ten Lakhs only)  
 M/s. Eternal Motors Pvt. Ltd.,  
 101, Sector-14, Gurgaon, Haryana

The above scanned invoice submitted by the appellant establishes that the services were in relation to the Fabrication and Testing of Tube Bundle Assembly in SS 304 for Transport structure, which has direct relation with fabrication of plant and machineries and hence, Credit of Rs. 3,88,077/- is available to the appellant as these services do not fall under the clause under Rule 7(i) of the Rules.

67 Scanned copy of Invoice of M/s. Eternal Motors Pvt. Ltd. and M/s. Concept Motors, indicating description of services as below :-



**Table 1: Financial Summary**

Item	2010	2011	2012	2013	2014
Revenue	1000	1000	1000	1000	1000
Expenses	1000	1000	1000	1000	1000
Profit	0	0	0	0	0

**Table 2: Detailed Financial Data**

Category	2010	2011	2012	2013	2014
Revenue	1000	1000	1000	1000	1000
Expenses	1000	1000	1000	1000	1000
Profit	0	0	0	0	0

**Table 3: Additional Financial Metrics**

Item	2010	2011	2012	2013	2014
Revenue	1000	1000	1000	1000	1000
Expenses	1000	1000	1000	1000	1000
Profit	0	0	0	0	0

Prepared by: [Name]

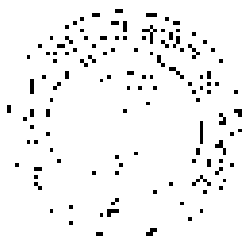
**Table 4: Detailed Financial Data**

Category	2010	2011	2012	2013	2014
Revenue	1000	1000	1000	1000	1000
Expenses	1000	1000	1000	1000	1000
Profit	0	0	0	0	0

**Table 5: Additional Financial Metrics**

Item	2010	2011	2012	2013	2014
Revenue	1000	1000	1000	1000	1000
Expenses	1000	1000	1000	1000	1000
Profit	0	0	0	0	0

Prepared by: [Name]

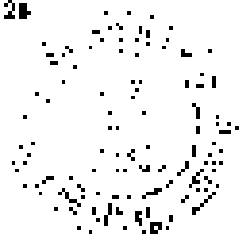


Vehicle scanning/repairing has no relation with fabrication of plant and machinery and hence, Convet credit of Rs. 1.17 is not available as held by the lower adjudicating authority. Copy of invoice in respect of M/s. Concepts Motors Pvt. Ltd. is also in relation to repairs of motor vehicle and therefore, Convet credit of Rs. 1,000/- also is not eligible for Convet credit as per Rule 2(f) of the Rules.

6.B Illustrative scanned copy of invoices in respect of M/s. U. J. Associates indicates description of services as below :

Sl. No.	Description	Qty.	Rate	Total
<p>Bill No. UJASPL/2013-14            TO: U. J. ASSOCIATES            M/s. M/s. U. J. Associates            2013-14            2013-14            2013-14</p>				
	<p>Complete overhaul &amp; repair of 4-cylinder diesel engine of 100 H.P. &amp; 1000 cc capacity, including replacement of 100 H.P. &amp; 1000 cc capacity diesel engine, including replacement of 100 H.P. &amp; 1000 cc capacity diesel engine, including replacement of 100 H.P. &amp; 1000 cc capacity diesel engine.</p>			28,15,000.00
	<p>MANUAL DIESEL PUMP UP &amp; DOWN            100 H.P. &amp; 1000 cc            100 H.P. &amp; 1000 cc            100 H.P. &amp; 1000 cc</p>			10,00,000.00
	<p>3 (Three) 200 H.P. &amp; 2000 cc Diesel Engines for business facility</p>			28,15,000.00
Total				28,15,000.00
<p>DATE: 24.11.2013            U. J. ASSOCIATES            2013-14            2013-14</p>				

The description shown in Bill No. UJASPL/2013-14 dated 24.11.2013 very clearly indicates that the services provided were in nature of fabrication and



erection of capital goods like MS Tanks, Vessels, Silos, scaffolding etc. which are part of plant and machineries and do not indicate that these services are in nature of Civil Construction Services. Therefore, Central credit of Rs. 10,46,581/- in respect of Bills issued by M/s. U. I. Associates do not seem to be hit by mischief of the exclusion clause of Rule 2(i) of the Rules and admissible to the appellants.

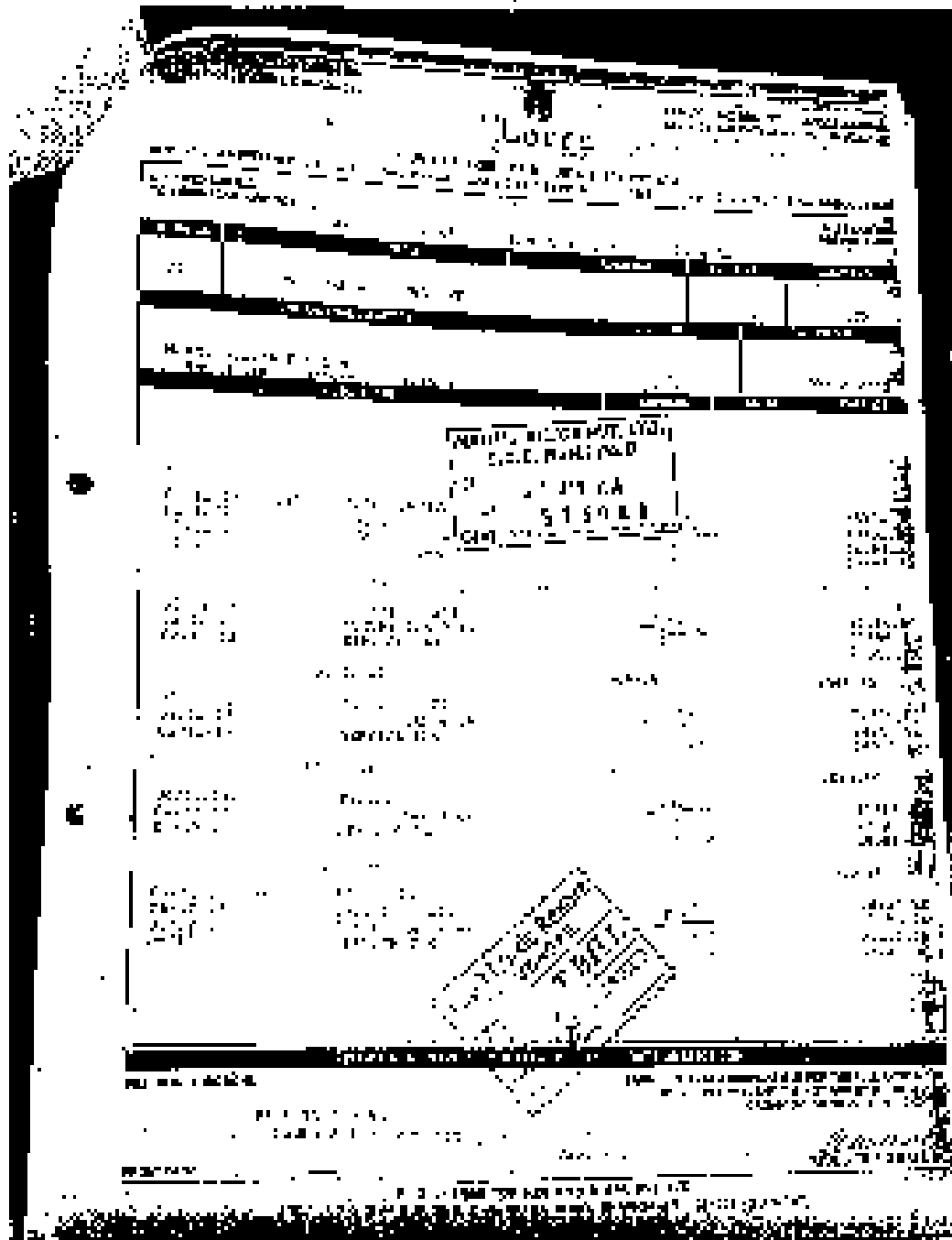
6.9 Scanned copy of Bill of M/s. Raja Engineering and Fabrication, Amritsar (U.P.) indicates description of the services provided as shown below :

M/S. RAJA ENGINEERING & FABRICATION		AMRITSAR	
Bill No. RA-01 dated 15/03/12			
Description of Services:			
1	Supply of 10 nos. of 1000mm dia. x 1000mm dia. x 10mm thick MS plates	Rate	10000/-
2	Supply of 10 nos. of 1000mm dia. x 1000mm dia. x 10mm thick MS plates	Rate	10000/-
3	Supply of 10 nos. of 1000mm dia. x 1000mm dia. x 10mm thick MS plates	Rate	10000/-
4	Supply of 10 nos. of 1000mm dia. x 1000mm dia. x 10mm thick MS plates	Rate	10000/-
5	Supply of 10 nos. of 1000mm dia. x 1000mm dia. x 10mm thick MS plates	Rate	10000/-
6	Supply of 10 nos. of 1000mm dia. x 1000mm dia. x 10mm thick MS plates	Rate	10000/-
7	Supply of 10 nos. of 1000mm dia. x 1000mm dia. x 10mm thick MS plates	Rate	10000/-
8	Supply of 10 nos. of 1000mm dia. x 1000mm dia. x 10mm thick MS plates	Rate	10000/-
9	Supply of 10 nos. of 1000mm dia. x 1000mm dia. x 10mm thick MS plates	Rate	10000/-
10	Supply of 10 nos. of 1000mm dia. x 1000mm dia. x 10mm thick MS plates	Rate	10000/-
Total			1,27,085/-

Bill No. 15 (RA-01) dated 15/03/12 indicates description of the service provided is erection of filter press, which is not any type of Civil Construction Service. I, therefore, find that these services do not fall under the exclusion clause and Central credit of Rs. 1,27,085/- in respect of the services provided by M/s. Raja Engineering & Fabrication are not hit by mischief of exclusion clause of Rule 2(i) of the Rules.

6.10 Scanned copy of Invoice of M/s. Top 3 Lords Resort (a unit of Tree Top Resorts & Spa Pvt. Ltd.), Bhenwager indicates description of the services provided as is shown as below -





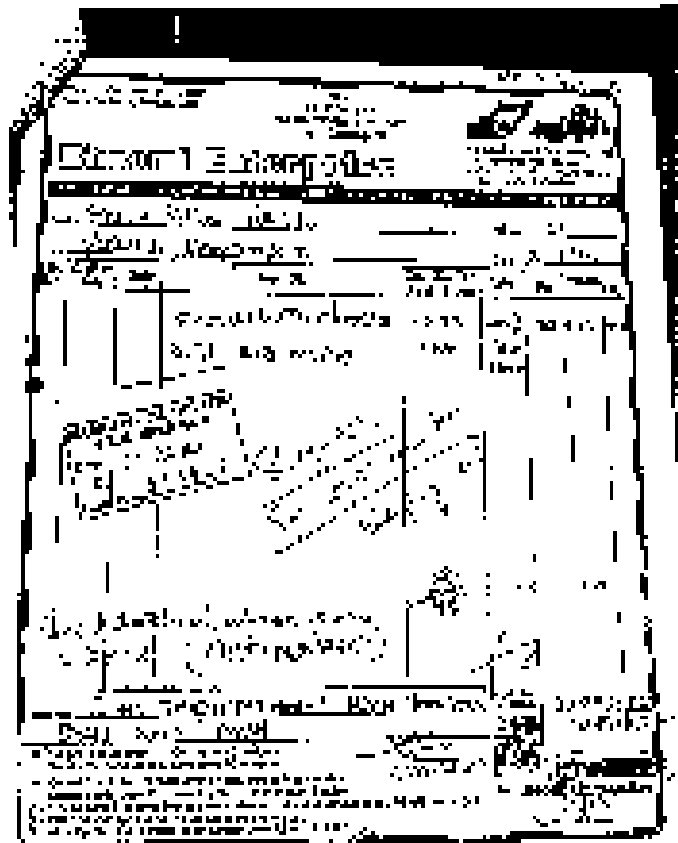
I find that the appellant provided accommodation/hotel facility to the personnel/engineers visiting their company for stay in various hotels at Dharmnagar. The definition of "hotel services" states services used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal, with the inclusions such as advertisement, market research and sales promotion, etc but exclude services which are primarily for personal use or consumption of any employee etc. The appellant has pleaded that the hotel services were used by them for their business purposes and no nexus is required to be proved for availing of General credit. In this regard, I find that the appellant has not been able to demonstrate as to how and in which manner the Hotel services have been used by them in or in relation to manufacture of their final products and clearances thereof. I find that as per RULE 5(5) of the General Credit Rules, 2004 the burden of proof for admissibility of General credit is cast upon the appellant.





and they have to discharge this burden. Hence, Service tax paid on Hotel bills cannot be allowed to be taken as Cenvet credit by the appellant and Cenvet credit of Rs. 3,591/- is held not admissible under Rule 2(1) of the Rules.

6.11 Illustrative scanned copy of Bill of M/s Bhoomi Enterprises indicates description of work done as excavation charges with JCB machine as below :-

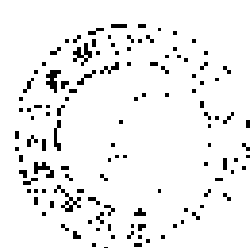


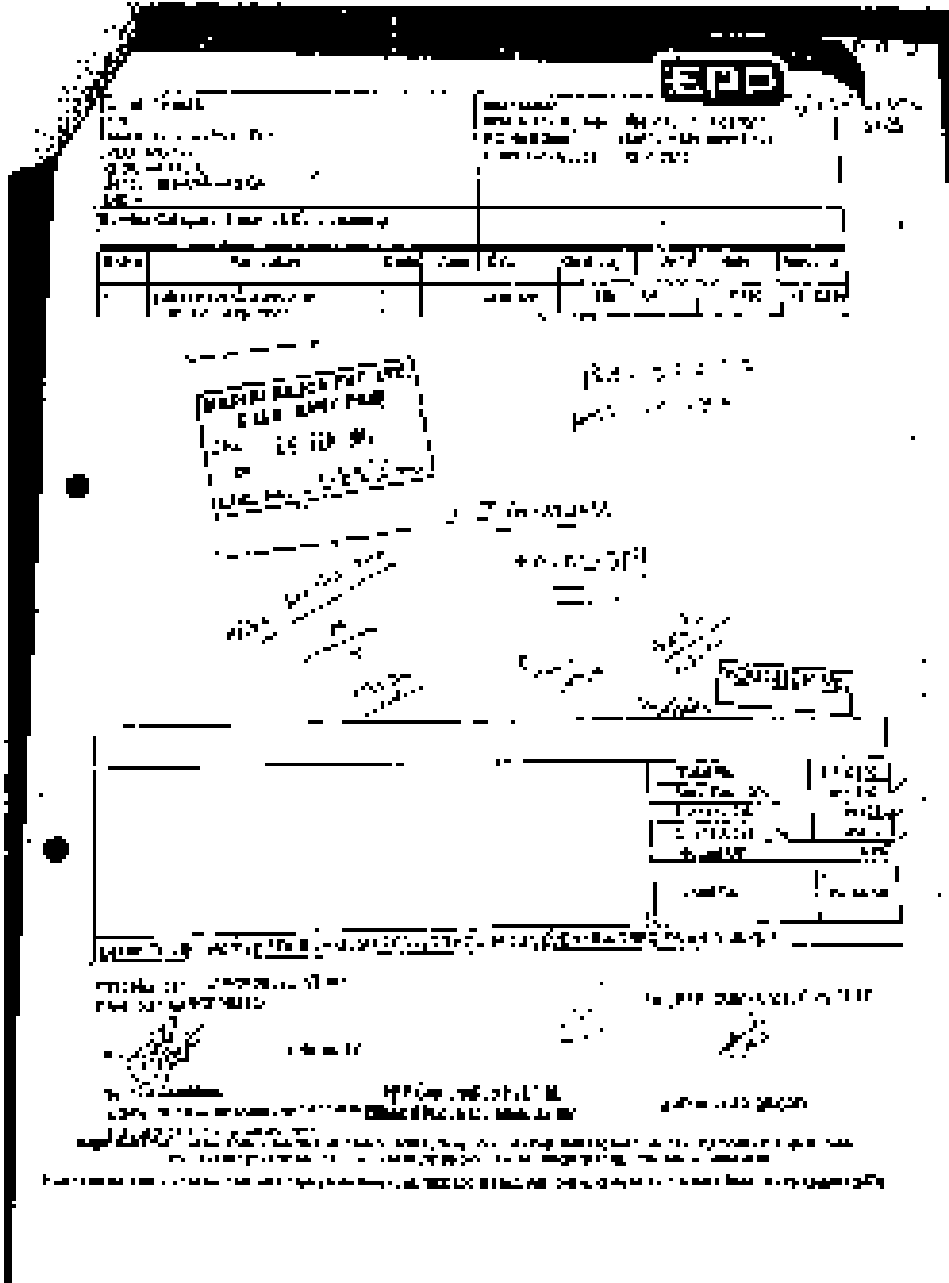
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The appellant did not submit copy of any work order with M/s. Bhoomi Enterprises and the description of work indicates the activities carried out by them as excavation with JCB foundation work which has to be treated as civil work and therefore Cenvet credit of Rs. 14,610/- in respect of Bills issued by M/s Bhoomi Enterprises fall under the exclusion clause and Cenvet credit is not available to the appellant.

6.12 Illustrative scanned copy of Invoice of M/s CPP Composites P. Ltd. indicates description of services provided as is shown below :-

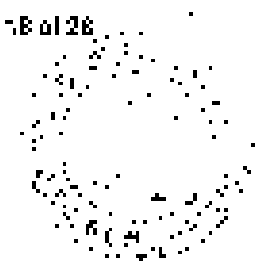




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Invoice No. 95206130 dated 27.01.2014 indicates scope of work as 3MM FRP lining with polycoat which is not Civil Construction work but related to foundation of machines and hence does not fall under the exclusion clause and Demand credit of Rs. 1,00,311/- in respect of services provided by M/s. - HP Concocrete P. Ltd. is not hit by mischief of exclusion clause of Rule 2(f) of the Rules.

5-19 - Illustrative scanned copy of invoice of M/s. L.M.V. Equipments describe service as erection of PHAG Bucket elevator as below:-



HMW-711  
FORM 711

**HMW EQUIPMENTS**

*HMW*

22/11/2019  
22/11/2019

**To**  
M/s. Indhara Coastal Hydraulics (P) Ltd.  
Plot No. 10/10, 11th Street, 11th Cross,  
11th Main Road,  
Mysore, Karnataka 575 001  
Phone: 08242 222222  
Fax: 08242 222222

**From**  
M/s. HMW Equipments  
Plot No. 10/10, 11th Street, 11th Cross,  
11th Main Road,  
Mysore, Karnataka 575 001  
Phone: 08242 222222  
Fax: 08242 222222

**Particulars**

Sl. No.	Description	Qty	Rate	Amount
1	Supply of 10 nos. of 1000mm dia. 1000mm height light weight concrete blocks for retaining wall work.	10	33430/-	334300/-
<b>Total</b>				
<b>Rs. 334300/-</b>				

**Terms and Conditions:**  
1. Delivery of goods to be made within 10 days of order.  
2. Storage of materials to be at customer's risk.  
3. Delivery to be made C&D.

**Authorized Signatory**  
[Signature]  
[Stamp]

**Received By**  
[Signature]  
[Stamp]

**HMW/19/2019-2020**  
22/11/2019

The above invoice indicates 'Erection and commissioning of supply of (3-HAC) Elevator Capacity of 5 TPH and Motor' which has direct relation to manufacturing process and is not in nature of Civil work or like that. I, therefore, find that the services provided by M/s. HMW Equipments do not fall under the exemption clause in any manner and General credit of Rs. 33,430/- as per invoices issued by M/s. HMW Equipments is available and is not hit by provision of the exemption clause of Rule 2(f) of the Rules.

ii.14 Illustrative scanned copy of invoice of M/s. Indhara Coastal Hydraulics (P) Ltd., Chennai indicates description of services provided as Mannar - IV study as shown below.



X

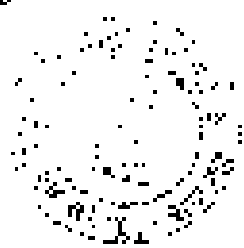
NO. 1  
DATE / /

**INDIAN CUSTOMS EXERCISES (P) LTD.**

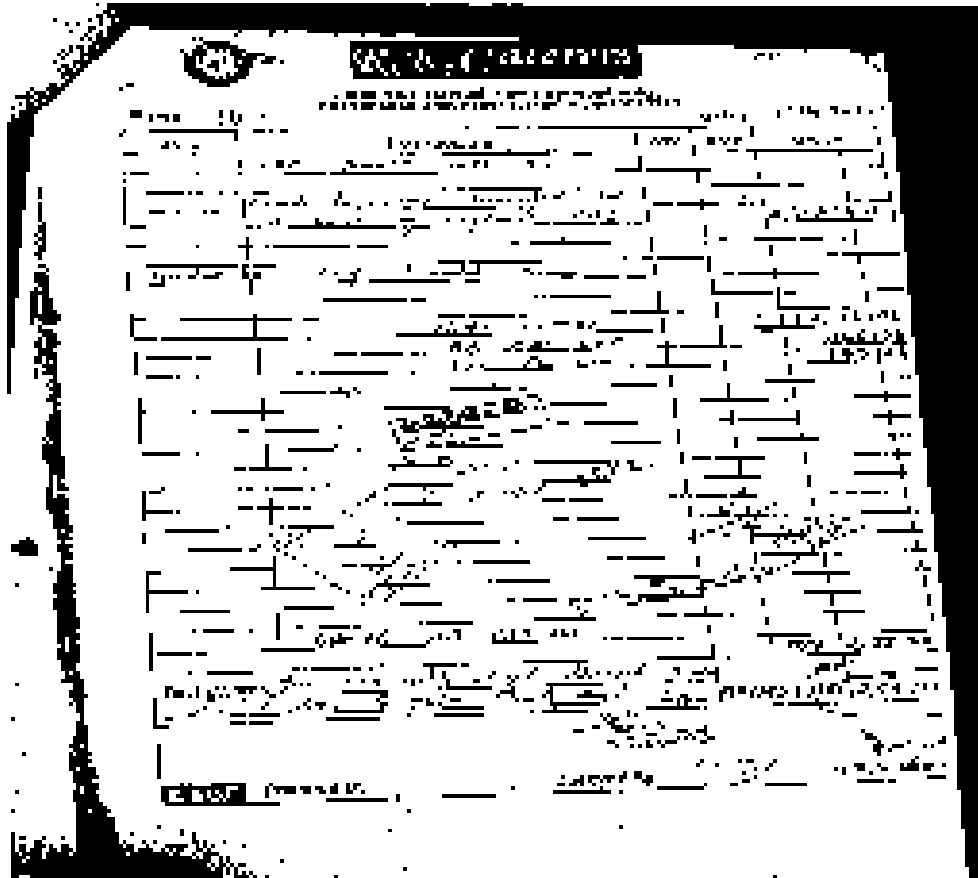
No. 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

Bill No. 131 dated 11.12.2013 clearly indicates description of services provided to Marine HA ship for disposing treated effluent from the factory of the appellant. I, therefore, find that the services do not fall under the exclusion clause and Grant credit of Rs. 9388/- on the services provided by M/s. Indemar Coastal Hydraulics (P) Ltd., Chennai, is not hit by mischief of exclusion clause of Rule 2(c) of the Rules and hence credit is admissible.

It is found that Grant credit of Rs. 17422/- on the services provided by M/s. R. K. Caterers through caterer of the appellant which the appellant was under obligation to maintain under the Factories Act, 1948. As per Agreement dated 15.06.2012 between the appellant and M/s. R.K. Caterers, the caterer has provided canteen facility to workers at the factory of the appellant, which was having direct nexus with manufacture of finished goods. The Grant of Grant credit in respect of bills issued by the service provider is held to be admissible on the decision of the



As per CESTAT in the case of M/s. ICICI Lombard General Insurance Co. Ltd reported as 2019 (42) STR 338 (1-Mumbai) is not correct as it is contrary to the facts available in the case. Illustrative scanned copy of bill raised by M/s. R. K. Caterers is reproduced below:-



*Handwritten mark*

8.15.1 The lower adjudicating authority has disallowed Credit note of Service Tax paid on the catering services alleging outside catering, which is factually incorrect. The order of Hon'ble CESTAT in the case of M/s. ICICI Lombard General Insurance Company Ltd. reported as 2019(42) STR 338 (1-Mum) relied upon the lower adjudicating authority is not applicable in the present case. The relevant para of the decision reads as under:

*“6.1. As regards the Credit note of the Service Tax paid on catering services, the issue is fairly settled by a judgment of Hon'ble High Court of Bombay in the case of M/s. R. K. Caterers. The Hon'ble High Court has categorically stated that Credit note can be availed on the Service Tax paid on the portion which is direct paid by the customer restaurant. The Hon'ble High Court has also held that Service Tax paid on contribution or value of the catering services enjoyed by the restaurant will not be available as Credit note. As per the Hon'ble High Court, the appellant is eligible to avail Credit note to the extent of Service Tax paid by the customer restaurant and is not eligible to avail Credit note of the Service Tax paid on the value of the services utilized by the employees of the appellant. Hence, no order is directed to reverse on the demand as per the judgment of Hon'ble High Court of Bombay and also to issue demand of service tax from the appellant.”*



5.15.2 In the present case, the services were not enjoyed by the employees of the appellant but inhouse canteen services had been provided by the appellant through these service providers as per requirement of the Factories Act, 1948. It is also not the case of the Department that the contractors had provided food outside the factory premises or brought pre-prepared food in the canteen, but they prepared food inside the canteen of the appellant situated within the factory premises for serving to the workers (house). I find that the lower adjudicating authority was incorrectly applied the case law of M/s. ICICI Lombard General Insurance Company Ltd. inasmuch as the service provided in this case is not Outdoor Catering meant for external use or consumption of any employee but was meant for Canteen services to provide food in the Canteen of the appellant for all workers of the factory. I am, therefore, of the considered view that the appellant is entitled to get Cenvat credit of Rs.17,323/- in this case.

5.15.3 Illustrative scanned copy of invoice of M/s. Neerav Engineering Pune indicates description of the services provided as below :

Page 22 of 28

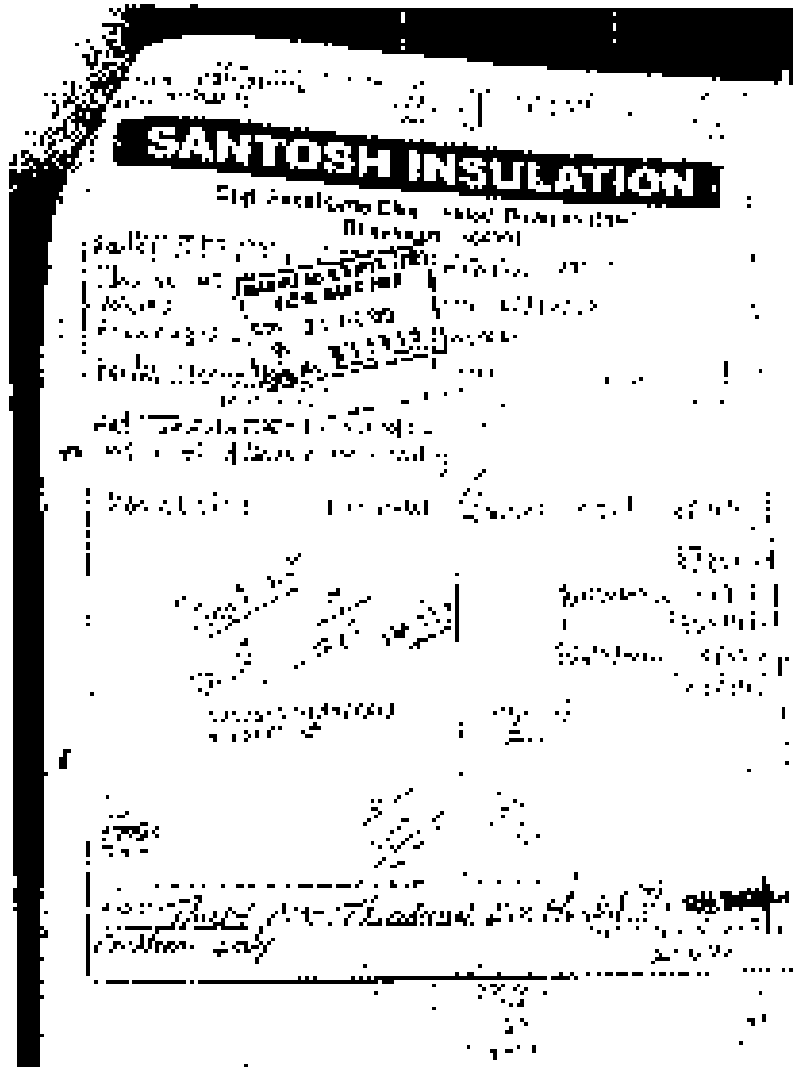
**NEERAV ENGINEERING**

Sl. No.	Description	Qty	Rate	Amount
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100	...	...	...	...

Total Amount: Rs. 17,323/-

Invoice No. 01 dated 01.10.2013 indicates description of the services as Fabrication of tube bundle module, tube sheet drilling, tube bending and Fabrication of Transport structure. The description provided in the Invoice does not indicate any nature of Civil work etc., therefore, find that these services do not fall under the exclusion clause and Genrat credit of Rs. 9,52,570/- in respect of services provided by M/s. Nirmal Engineering Pune does not seem to be hit by mischief of exclusion clause of Rule 2(i) of the Rules.

6.17 Illustrative scanned copy of invoice of M/s. Santosh Insulation, Anwaragar indicates description of the services as below :-




The appellant has not provided any work order regarding services provided by M/s. Santosh Insulation. However, description provided in the invoices, establish that it is insulation of 100 mm tube areas with aluminium cladding, which is not in the nature of Civil Construction Services and do fall

34

under the exclusion clause and therefore, Court credit of Rs. 11,264 in respect of Invoiced issued by M/s. Vibrotech insulation is available to the appellant as per Rule 2(f) of the Rules.

6.13 Scanned copy of Invoice of M/s. Vibrotech, Madhwa Industries Association, of services provided as shown below :-



17, Top Floor, Bangor Bhawan, 35, Park Road, Madhwa, Bangalore - 560022  
 Madhwa Industries Association, Bangalore - 560022

**RETAIL INVOICE**

To  
 M/s. Silka Pvt. Ltd. Unit 10/11  
 Plot No. 146, GITCO Zone, Madhwa, Bengaluru  
 Bengaluru  
 C.A. No. 10/11 Zone, Madhwa - Bengaluru.

Sl. No.	Description	Qty	Rate	Total
1	Supply of Insulation Material	1000	11.264	11264
2	Supply of Insulation Material	1000	11.264	11264

GST No. 29AABK0692A  
 GST INVOICE No. 29AABK0692A/1001/001  
 Date: 13/06/2023

TIN No: 29AAABK0692A  
 Service Tax No: 29AABK0692A/1001/001  
 PAN No: AAABK0692A

M/s. Vibrotech  
 Bhanu Srinivasan

M/s. Silka Pvt. Ltd.  
 Bhanu Srinivasan

Amount in Words: ₹ 11,264 Only





Ref No. V/187 dated 06.12.2012 submitted by the appellant indicates scope of work as On-site Vibration Analysis and Dynamic Balancing of PA and Salt Plant. The description provided in the invoice, do not indicate any nature of Civil work but has direct bearing on the working of the plant and machinery. I, therefore, find that these services do not fall under the exclusion clause and General credit of Rs. 742/- in respect of the services provided by M/s. Vibrotech is not hit by mischief of exclusion clause of Rule 2(f) of the Rules.

6.10. Scanned copy of Invoice of M/s. Shree Sai Fractum Pvt. Ltd. Ahmedabad indicates description of the services as shown below :-

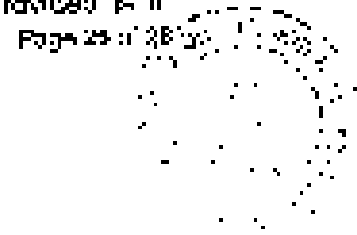
**SHREE SAI FRACTUM PVT. LTD.**  
 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

Sr. No.	Description	Quantity	Unit	Amount
1	On-site Vibration Analysis and Dynamic Balancing of PA and Salt Plant	1	Job	27100
<b>TOTAL</b>				<b>27100</b>

**SHREE SAI FRACTUM PVT. LTD.**  
 S. G. A. ROAD, PUNE  
 PIN - 411 004  
 G. No. 11/13/15

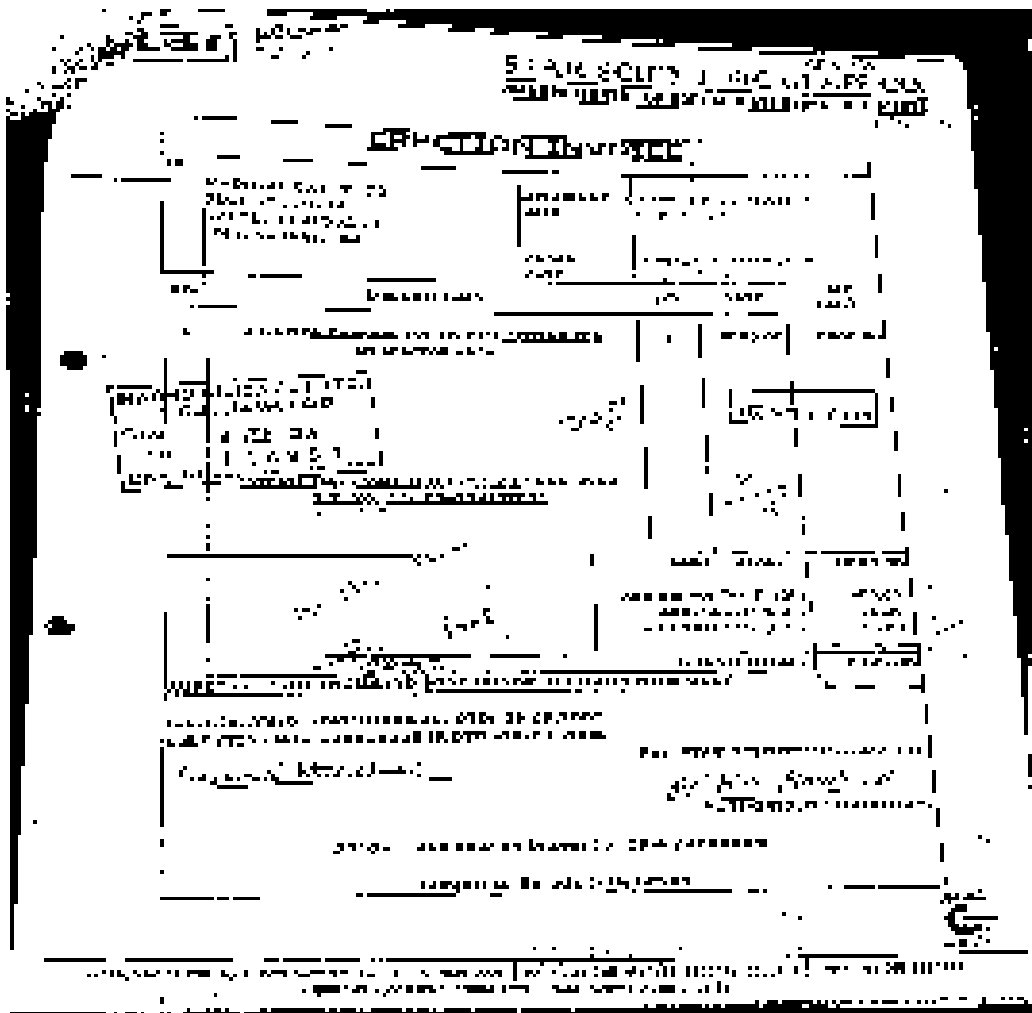
*(Signature)*  
 Date: 06/12/2012

The appellant has not provided any work order. However, going through the description provided in the Bill, I find that services provided is in



relation to Work done Civil work". Therefore I hold that Central credit in respect of bills issued by M/s. Shree Sai Erectors Pvt. Ltd. fall under the exclusion clause and Central credit Rs. 1607.132/- is not available to the appellant under Rule 2(f) of the Rules.

5.20 Scanned copy of Invoice of M/s. Star Scientific Glass Co., Bhamnagar indicates description of the services as shown below :-



The appellant has not provided any work order, however, on going through the description provided in the above invoices I find that the services provided were in relation to Erection of MS PTF filling for 50 resistor area. , therefore, find that these services do not fall under the exclusion clause and Central credit of Rs. 350/- in respect of these services provided by M/s. Star Scientific Glass Co. is not hit by mischief of exclusion clause of Rule 2(f) of the Rules.

7. In view of above findings Central credit of Service Tax paid on the invoices/bills of M/s. Sai Electrochem Lab (Rs. 7517/-); M/s. Archista Engineering Projects Pvt Ltd. (Rs. 515965/-); M/s. King Engineers(Rs. 1008/-




20


), M/s. Mahavi Mandap Service (Rs.19,224/-), M/s. Cernal Motors (Rs. 111/-), M/s. Concepts Motors Pvt. Ltd. (Rs. 1,800/-), M/s. Top 3 Lords Hosana (Rs. 3,581/-), M/s. Dhruvi Enterprises (Rs. 14,016/-) and M/s. Shree Sai Tractors Pvt. Ltd. (Rs. 11,007,108/-) totaling to Rs. 15,71,170/- has been correctly denied by the lower adjudicating authority. Accordingly, I hold that Cernal credit of Rs. 15,71,170/- is not admissible to the appellant, which should not bear the onus of paying interest as per Rule 14 of the Rules read with Section 114A of the Act.

7.1 I allow Cernal credit of Service Tax paid on the services provided as per invoices/bills of M/s. Shama Associates (Rs. 19,353/-), M/s. Subham Udyog (Rs. 3,38,077/-), M/s. U.F. Associate (Rs.10,48,591/-), M/s. Para Engineering and Fabrication (Rs. 1,27,000/-), M/s. BPP Composites P. Ltd. (Rs. 100,519/-) and M/s. HMV Equipments (Rs. 52,730/-), M/s. M/s. Indonet Coastal Hydraulics (P) Ltd. (Rs. 8,890/-), M/s. R. K. Caterers (Rs.17,823/-), M/s. Neerav Engineering (Rs. 2,32,576) and M/s. Sansash Insulation (Rs. 11,358/-) and M/s. Vibrotech (Rs. 742/-) and M/s. Star Scientific Glass Co. (Rs. 1955/-) totaling to Rs. 28,03,811/- and no interest is payable for this amount.

8 As regards penalty, I find that the Show Cause Notice dated 07.07.2014 is covering the period from October, 2012 to December, 2012 for availing of inadmissible Cernal credit which has been adjudicated imposing penalty of Rs. 43,74,381/- vide the Impugned order dated 28.02.2017. Cernal credit of Rs. 28,03,811/- is actually admissible to the appellant. Further, there is no suppression of facts by the appellant and all facts have been declared by them in their returns. However, since Cernal credit of Rs. 15,71,170/- has been held as not admissible to the appellant, there is a case for imposition of penalty as per Rule 15(2) of the Rules read with Section 114C(1)(a) of the Act. Accordingly, I impose penalty of Rs. 1,57,110/- on them.

9. अपीलकर्ता द्वारा दर्ज की गई अपील का निम्नानुसार उपरोक्त तरीके से स्थिर किया जा रहा है।
- i) The appeal filed by the appellant is disposed off in above terms.

गणपति  
  
 निदेशक, सी.एस.टी. विभाग  
 अहमदाबाद

  
 (कुमार संतोष)  
 आयुक्त (अपील)



By R.P.A.D.

To

M/s. Madhu Sillca Pvt Ltd,  
DU-IV,  
Plot No. 147,  
Vantej,  
Bhavnagar - 384 060.

મેસ્સેજ્ સપ્લુ સિલિકા પ્રાઇવેટ  
લિમિટેડ,  
DU-IV,  
પ્લોટ નો. 147, વાવંતેજ,  
ભાવનગર - ૩૬૪ ૦૬૦.

Copy for information and necessary action to :-

1. The Chief Commissioner GST & Central Excise, Ahmedabad Zone, Ahmedabad for his kind information.
2. The Commissioner, GST & Central Excise, Bhavnagar Commissionerate, Bhavnagar
3. The Additional Commissioner GST & Central Excise Division, Bhavnagar.
4. The Assistant Commissioner, GST & Central Excise, Surendranagar Division.
5. Guard File.

