## MAHARASHTRA AUTHORITY FOR ADVANCE RULING

**(constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)**

**BEFORE THE BENCH OF**

**(1) Shri B. V. Borhade, Joint Commissioner of State Tax**
**(2) Shri Pankaj Kumar, Joint Commissioner of Central Tax**

| GSTIN Number, if any/ User-id | | 27AAACF0252G1Z3 |
|---|---|---|
| Legal Name of Applicant | | CMI FPE LIMITED |
| Registered Address/Address provided while obtaining user id | | CMI FPE LIMITED, Mehta House - 64, Road No.13, MIDC, Andheri (East), Mumbai - 400093 |
| Details of application | | GST-ARA, Application No. 25 Dated 20.02.2018 |
| Concerned officer | | Commissioner, GST/CX, Mumbai East Commissionerate. |
| Nature of activity(s) (proposed / present) in respect of which advance ruling sought | | |
| A | Category | Manufacturing |
| B | Description (in brief) | |
| Issue/s on which advance ruling required | | (iv) Admissibility of input tax credit of tax paid or deemed to have been paid |
| Question(s) on which advance ruling is required | | As reproduced in para 01 of the Proceedings below. |

## PROCEEDINGS

**(under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)**

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act"] by CMI FPE LIMITED, the applicant, seeking an advance ruling in respect of the following question :

*Eligibility of Input Tax Credit*

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / MGST Act would be mentioned as being under the "GST Act".

02. FACTS AND CONTENTION - AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus -

**Statement of relevant facts having a bearing on the question raised-** We are making provision for slow moving/non moving materials as required under accounting standards. As a prudent accounting practice, we make provision for slow moving/non moving materials. The goods would be in usable condition and will be used as and when required in ongoing projects. We are showing inventory value net of provisions in notes forming part of the financial statement under the head inventories. It is only a provision in books of accounts and not a write off of inventory value. As per Company policy, 25%, 50% and 100% provision will be made for materials not moved 2 year, 3 year and 4 year respectively.

As per 3 (5B) of cenvat credit rules, 2004 we reverse the cenvat credit when the provision for write off inventory value is made in our books of accounts. As per above said rules re-credit can be taken only when such goods are subsequently used. From October-2014 to 30/06/2017 we have debited total amount Rs.52,65,551/-. Out of Rs.52,65,551 we availed recredit for Rs.29,83,759 and (for material subsequently in production) balance credit to be availed is Rs.22,81,792/-.

As on 30/06/2017 we have the total debit balance of Rs.22,81,792/- In post GST there are no specific provisions available either in the GST Act/GST rules, for taking back such credit.

**Statement containing the applicant's interpretation of law in respect of the aforesaid questions-**

We refer to Sub-rule (5B) of Rule 3 of the CCR states that if the value of any: (i) input, or (ii) capital goods before being put to use, on which CENVAT credit is taken is written-off fully or partially or where any provision to write-off fully or partially (w.e.f. 1.3.2011) has been made in the books of account, then the manufacturer or service provider is required to pay an amount equivalent to the CENVAT credit taken in respect of said inputs or capital goods. However, if these are subsequently used in the manufacture of final products or the provision of taxable service, the manufacturer or output service provider can take credit of the amount paid earlier.

**Question on which advance ruling required-whether we are eligible to avail input tax credit against unutilised cenvat credit such as Education cess, Secondary &Higher secondary Education cess & Krishi Kalyan cess lying in our books of Accounts?**

**Statement of relevant facts having a bearing on the question raised-**

Education Cess was levied vide Section 91, read with Section 93 on excisable goods and on taxable services vide Section 91, read with Section 95 of the Finance Act, 2004 with effect from 10.9.2004. The Cenvat Credit Rules, 2004 also notified from the same date, vide Rule 3(1) provided that the manufacturer or provider of taxable (output) service shall be allowed to take credit, *inter alia*, of the Education Cess.

Secondary and Higher Education Cess (SHE Cess) was levied on excisable goods and taxable services with effect from 12.5.2007 under Section 136, read with Sections 138 & 140 respectively of the Finance Act, 2007. Correspondingly, the Cenvat Credit Rules, 2004 were amended for allowing credit of the SHE Cess.

Through Rule 3(7)(b) of the Cenvat Credit Rules, 2004, read with provisos thereunder it was mandated that credit of education cess on excisable goods and taxable services can be utilised for payment of education cess on excisable goods or taxable services. Similarly, utilisation of credit of SHE Cess was allowed only for payment of SHE Cess on excisable goods and taxable services.

Section 95 of the Finance Act, 2004 (Education Cess on services) and Section 140 of the Finance Act, 2007 (SHE Cess on services) were omitted by the Finance Act, 2015 with effect from 1.6.2015 which meant that there was no levy of Education Cesses on taxable services with effect from 1.6.2017.

Though Section 93 of the 2004 Act and Section 138 of the 2007 Act, levying Education Cesses on excisable goods were not omitted, vide Notification No.14/2015-CE and 15/2015-CE both dated 1.3.2015, EC on excisable goods was exempted. Therefore, there was no levy of EC on excisable goods from 1.3.2015 itself.

Introducing the changes, the Finance Minister in his Budget speech stated that "*As part of the movement towards GST, I propose to subsume the Education Cess and SHE Cess in Central Excise duty. In effect, the general rate of Central Excise Duty of 12.36% including the cesses is being rounded off to 12.5%*' (para 118).

The FM also stated that "*Introduction of GST is eagerly awaited by Trade and Industry. To facilitate a smooth transition to levy of tax on services by both the Centre and the States, it is proposed to increase the present rate of Service Tax plus education cesses from 12.36% to a consolidated rate of 14%*'.(para 121)

Thus, it was generally expected by the trade and industry that as the Education Cesses have been subsumed as part of Excise Duty or Service Tax, the existing balance of the cesses would be allowed to be utilised for payment of Excise duty or Service Tax. However, no amendments were made to Rule 3(7)(b) of the Cenvat Credit Rules, 2004 to this effect.

However Notification No.12/2015-CE(NT) amended second proviso to Rule 3(7)(b) for allowing utilisation of EC paid on inputs and capital goods received on or before 01.03.2015 by a manufacturer towards payment of excise duty

Credit of balance fifty percent of EC on capital goods received by a manufacturer during the previous FY for payment of excise duty;

Credit of EC paid on input services received by the manufacturer on or after 1.3.2015 for payment of excise duty.

Similarly, Notification No.22/2015-CE(NT) dated 29.10.2015 inserted sixth proviso to Rule 3(7)(b) to permit utili: of EC paid on:

inputs and capital goods received on or after 1.6.2015 by a service provider towards payment of Service Tax;

Credit of balance fifty percent of EC on capital goods received by a service provider during the previous FY for payment of Service Tax;

Credit of EC paid on input services received by a service provider on or after 1.6.2015 for payment of Service Tax.

Even though the case of a service provider receiving inputs or capital goods on payment of EC after 1.6.2015 was remote (as EC on excise duty was exempted from 1.3.2015 itself) the above amendment was carried out. Similarly, the fact that a service provider could have taken credit on the balance fifty percent of EC on capital goods received during the previous year by 1.4.2015 itself was also not reckoned.

The crucial aspect which is relevant for the present discussion is that all through the above process, till the introduction of GST, there was no change in Rule 3(1) and it continued to provide that 'a manufacturer or producer of final products or a provider of output service shall be allowed to take credit (hereinafter referred to as the **CENVAT Credit)** of:

The education cess on excisable goods leviable under section 91 , read with section 93 of the Finance Act, 2004. The Secondary and Higher education cess on excisable goods leviable under section 136, read with Section 138 of the Finance Act, 2007,

The cess on taxable service leviable under section 91, read with section 95 of the Finance Act, 2004 the Secondary

and Higher education cess on taxable services leviable under Section 136, read with Section 140 of the Finance Act, 2007; paid on any input or capital goods or input service received by the manufacturer of final products or provider of output service paid on any input or capital goods or input service received by the manufacturer of final products

or provider of output service.

Therefore, there can be no doubt that the Education Cess/SHE Cess on excisable goods and input services continued to be **CENVAT Credit.**

Krishi Kalyan cess as per rule 3(1a) inserted by notification No.28/2016-CE(NT) with effect from 1.06.2016 provided that a provider of output service shall be allowed to take CENVAT credit of the Krishi Kalyan Cess on taxable services leviable under Section 161 of the Finance Act, 2016.

**Statement containing the applicant's interpretation of law in respect of the aforesaid question-**

Once the credit on Education Cess has been taken validly, and continues to be referred to as CENVAT credit, the taxpayer cannot be deprived of the credit and thereby increase the cost of procurement of the inputs/input services after a few years.

The Hon. Supreme Court in the case of *Collector of Central Excise*, v. *Dai Ichi Karkaria Ltd.* [1999] (112) ELT 353 had clearly laid down the above principle in the following words:

> '*17. It is clear from these Rules, as we read them, that a manufacturer obtains credit for the excise duty paid on raw material to be used by him in the production of an excisable product immediately it makes the requisite declaration and obtains an acknowledgement thereof. It is entitled to use the credit at any time thereafter when making payment of excise duty on the excisable product. There is no provision in the Rules which provides for a reversal of the credit by the excise authorities except where it has been illegally or irregularly taken, in which event it stands cancelled or, of utilised, has to be paid for. We are here really concerned with credit that has been validly taken, and its benefit is available to the manufacturer without any limitation in time or otherwise less the manufacturer itself chooses not to use the raw material in its excisable product. The credit is, therefore, indefeasible..*'

The principle flowing from the decision in the case of *Eicher Motors Ltd.* v. *Union of India* 1999 taxmann.com 1769 (SC). Rule 57F(4A) was introduced by the Government whereby credit of specified duty lying unutilised on the 16th day of March 1995 with a manufacturer of tractors, motor vehicles falling under 8702 and their parts was to lapse. The background for introduction of the rule was that with liberalisation/simplification of Modvat scheme, credit of duty paid on any inputs was allowed to be used for payment of duty on any final products, in view of the 'inverted duty structure' *vis-a-vis* the parts and final products, there was accumulation of credit with manufacturers of tractors/motor vehicles. The Hon. Supreme Court held that:

> '*5.....The basic postulate, that the scheme is merely being altered and, therefore, does not have any retrospective or retro-active effect, submitted on behalf of the State, does not appeal to us. As pointed out by us that when on the strength of the rules available certain acts have been done by the parties concerned, incidents following thereto must take place in accordance with the scheme under which the duty had been paid on the manufactured products and if such a situation is sought to be altered, necessarily it follows that right, which had accrued to a party such as availability of a scheme, is affected and, in particular, it loses sight of the fact that provision for facility of credit is as good as tax paid till tax is adjusted on future goods on the basis of the several commitments which would have been made by the assessees concerned. Therefore, the scheme sought to be introduced cannot be made applicable to the goods which had already come into existence in respect of which the earlier scheme was applied under which the assesses had availed of the credit facility for payment of taxes. It is on the basis of the earlier scheme necessarily the taxes have to be adjusted and payment made complete. Any manner or mode of application of the said rule would result in affecting the rights of the assessees.*'

In the context of the GST Transition provisons, the Education Cesses & Higher secondary education cess were subsumed into the excise duty/Service Tax rate structure as has been announced by the Finance Minister to the Parliament as a move towards GST. Therefore, even the justification extended for introduction of Rule 57F(4A) is not present in this case, and the taxpayer cannot be required to write off the unutilised balance of credit on Education Cesses as a cost at this stage

**03. CONTENTION - AS PER THE CONCERNED OFFICER**

The submission, as reproduced verbatim, could be seen thus-

**WRITTEN SUBMISSION**

CMI FPE Limited., 400 093 ( here in referred to as ' the applicant ') has filed above detailed application under Section 97 of the Central Goods and Service Tax Act, 2017 read with Rule 97 of the Central Goods and Service Tax Act, 2017 read with Rule 104 (1) of the CGST Rules, 2017 seeking advance ruling on the issues detailed at column number 14 of the Application field, in form of questions framed as under 1-3 as in note sheet.

1. The admissibility of input tax credit pertaining to chapter V of the CGST Act, 2017 from Section 16 to 21 is a different subject matter than the Transitional Provisions under chapter XX Section 139 to 142.
2. The Authority of Advance Ruling can pronounce it advance ruling only to the subject matter and questions entrusted under Section 97(2)(a) to Section 97 (2)(g) and not any other subject matter or questions.
3. Since question or subject matters under Transitional Provision of Chapter XX are not covered in the said list of questions under Section 97(2), the Authority of Advance Ruling has no jurisdiction over the instant subject questions related to Transitional Provisions of Chapter XX and, hence, it will not be appropriate that the 'Authority of Advance

Ruling' pronounce any Advance Ruling regarding any such questions which is out of their jurisdiction.

4. The applicant has raised the issue regarding the availment of input tax credit for excise duty paid under rule 3(5B) of cenvat credit rules,2004?

5. The applicant has also raised the issued regarding -whether they are eligible to avail input tax credit against unutilised Cenvat credit such as Education cess, Secondary & Higher secondary Education cess & Krishi Kalyan cess lying in their books of Accounts?

6. For Para 4 it may be seen that there is no such provisions made in the sub Section of Section 140 of CGST Act, 2017 and relevant Rule. Hence no credit can be allowed. This facts has been explained by the party in their application itself. So, no further comments are warranted.

7. For the Para 5 :- It is further mentioned that entries in respect of Krishi Kalyan Cess and Education Cess etc. are not found at any of the place in the existing Section of 140 of the CGST Act and Rules 2017. Therefore, the credit of taxes which are not covered in the definition of eligible duties in Section 140 cannot be availed. This fact has been explained by the party in their application itself. So, no further comments are warranted.

The above submissions are made only as preliminary submissions about the admissibility of the application and detailed submissions would be filed as a later stage. From the discussion as made above taxes leviable in the pre GST regime are now not finding any entry under the existing GST Act, 2017 hence, Input Tax Credit is not applicable in any case. In any case, this application is out of jurisdiction. Hence, it is prayed that the application may be rejected at this stage only.

## 04. HEARING

The case was taken up for preliminary hearing on 20.03.2018. Sh. S Ramaiya, Asstt. Chief Manager appeared and made an oral request as well as written submission stating that their Consultant is not available and therefore an adjournment be granted in the matter. Jurisdictional Officer Sh. Anil Kumar, Superintendent, Division -X, Range-I, Mumbai East appeared and made written submission.

The preliminary cum final hearing was held on 04.04.2018 Mr. Manish Parekh, Consultant along with Sh. S Ramaiya, Asstt. Chief Manager and Mr. Ajay Shah, General Manager appeared and made written submissions. They requested that today's hearing be treated as final hearing and issue be decided on the basis of their written submissions. Jurisdictional Officer Sh. Anil Kumar, Superintendent, Division -X, Range-I, Mumbai East appeared and stated they have already made written submissions stating that application may not be admitted.

On going through the submissions and application of applicant and of the jurisdictional Officer application is admitted and would be decided on merits. Further in respect of their first question in their application, they stated that as it is not covered under transitional provisions of GST as available, they withdraw the same and may be considered and they would approach the jurisdictional authorities for the same. The request was considered and granted.

## 05. OBSERVATIONS

We have gone through the facts of the case. There are two issues before us which are required to be decided. The primary issue raised by the applicant is regarding availment, under the GST laws, of input tax credit (ITC) for excise duty paid under Rule 3(5B) of the Cenvat Credit Rules, 2004 (CCR) and the second issue is whether they are eligible to avail ITC against unutilized cenvat credit such as Education Cess (EC), Secondary & Higher Education Cess (SHEC) and Krishi Kalyan Cess (KKC) lying in their books of accounts.

We find that in respect of their first question raised in the application, they at the time of hearing on 04.04.2018 have stated and accepted that this question is not covered within the scope of Section 97 of the CGST Act, 2017 and therefore they withdraw this question and the same may not be answered by the authority. In view of this, as their question is not covered within the scope of Section 97 of the CGST Act, 2017 and is withdrawn by them, we are not discussing and answering in respect of this question and the same is allowed to be withdrawn.

Now we refer to question No. 2 which is as under:-

**Question No. 2:- is whether they are eligible to avail ITC against unutilized cenvat credit such as Education Cess (EC), Secondary & Higher Education Cess (SHEC) and Krishi Kalyan Cess (KKC) lying in their books of accounts.**

Education Cess (EC) was levied under the provisions of the Finance Act, 2004 with effect from 10.9.2004 and the CCR vide Rule 3(1) notified that the manufacturer or provider of taxable (output) service shall be allowed to take credit of EC. The CCR also mandated that such credit of EC could be utilized only for payment of EC on excisable goods or taxable services. Under both, the service tax laws and the central excise laws, EC was not supposed to be used for making duty/tax payments. Levy of EC was abolished by the Finance Act, 2015, w.e f 01.06.2015, in the case of taxable services and wef 01.03.2015 in the case of excisable goods. Later on Notification No. 12/2015 - CE (NT) dated 30.04.2015 was issued and the said Notification allowed manufacturers to utilize the Cenvat credit on CESS towards payment of basic excise duty in certain situations. The amendment was made applicable only to CESS paid on inputs, capital goods and input services received in the factory of the manufacturer on or after 01-03-2015. The Budget provisions in 2015 made no express provision as regards to the lapse of balance of credit available with the manufacturers or the provision of its utilisation in future or its refund.

Similarly, Secondary and Higher Education Cess (SHEC) was levied by the Finance Act, 2007 and the CCR vide Rule 3(1) notified that the manufacturer or provider of taxable (output) service shall be allowed to take credit of SHEC. The CCR also mandated that such credit of SHEC could be utilized only for payment of SHEC on excisable goods or taxable services. Under both, the service tax laws and the central excise laws, SHEC was not supposed to be used for making duty/tax payments. Levy of SHEC was also abolished by the Finance Act, 2015. Notification No. 12/2015-CE(NT) mentioned above was applicable to SHEC also in the case of a manufacturer. In this case also Budget provisions in 2015 made no express provision as regards to the lapse of balance of credit available with the manufacturers or the provision of its utilisation in future or its refund.

Here we take the opportunity to cite the recent judgment of Hon'ble **Delhi High Court in case of Cellular Operators Association of India and Others Vs UOI and Others 2018-TIOL-310-HC-DEL-ST**.

*A writ petition was filed inter alia seeking direction that the credit accumulated as on 01st June 2015 on account of EC and SHEC should be allowed to be utilized for payment of service tax. The petitioners claim a vested right to avail benefit of the unutilized amount of EC or SHE credit, which was available and had not been set off as on 1st March 2015 and 1st June 2015 for payment of tax on excisable goods and taxable services respectively. The contention was that EC and SHE were subsumed in the Central Excise Duty, the general rate of which was increased from 12% to 12.5%, and service tax, which was increased from 12.36% to 14%. Reliance was placed upon the Budget Speech of the Finance Minister and the memorandum explaining provisions of Finance Bill, 2015. Reference was also made to the TRU letter F.No.334/5/2015-TRU dated 28th February 2015. The court has held that Manufacturers and Service providers are entitled to avail and utilize EC and SHEC against the liability of EC and SHEC before the cut-off dates i.e, 01st March 2015 in case of Goods and 01st June 2015 in case of Services, as the EC and SHEC was ceased to be applicable after the said dates. The provisos added to Rule 3, sub-rule (7) in clause (b) allowing utilization of EC and SHEC (availed on inputs, capital goods or service received after 01st June 2015) for making payment of service tax is in the nature of concessions confined to a limited and narrow set of cases which are distinct and separate and are not of general application. Therefore, the same cannot be applied to the balance of EC and SHEC available as on 01st*

*March 2015 and 01st June 2015 as the said benefit of cross-utilization was never available earlier and this amounts to seeking the additional benefit and concession beyond those granted. Further, the Hon'ble High Court held that there is no provision in the law which states that EC and SHEC are subsumed into Service Tax and Excise Duty to allow the cross-utilisation of credit. Thereby decision concluded that the credit of EC and SHEC cannot be used for the payment of excise duty.* The Hon. Court dismissed the Writ Petition.

From the submissions made by the applicant it is seen that in addition to the EC and SHEC their query is also whether they are eligible to avail ITC against unutilized cenvat credit of Krishi Kalyan Cess (KKC) lying in their books of accounts. This authority has answered this question in the negative in the Advance Ruling order passed in the case of M/s Kansai Nerolac Paints Limited (KNPL). In the case of KNPL, the query was similar i.e. whether accumulated credit by way of KKC would be considered as ITC under GST laws. The reasons on the basis of which the said ruling has been passed would also be applicable to the subject matter at hand.

We find that express provisions have been made in the Cenvat Credit Rules from time to time that credit availed in respect of EC, SHEC and KKC can be used for making tax/duty payments only against EC, SHEC and KKC, respectively. The CCR has also expressly provided that items in respect of which CENVAT credit is available, would not be utilized for payment of EC, SHEC and KKC. Thus, there was a clear demarcation of the credit in respect of EC, SHEC and KKC. Under GST, there is no levy of the three types of cesses mentioned above.

We find that the provisions of Section 140 (1) of the GST ACT, 2017 clearly states that "a registered person shall be entitled to take, in his electronic credit ledger, the amount of cenvat credit carried forward .......", It is further mentioned that entries in respect of KKC, EC etc. are not found in the existing Section of 140 of the CGST Act and also under the rules made therein. In the present case, EC, SHEC and KKC were to be utilized for payment of EC, SHEC and KKC respectively. Therefore, all the three types of cesses cannot be treated as excise duty or service tax. In view thereof, the CENVAT credit as referred to in sub-section (1) of section 140 would not include the credit in respect of KKC. Therefore, the credit of taxes which are not covered in the definition of eligible duties in Section 140 cannot be availed.

We also refer to Rule 117 of the CGST Rules which provide the mechanism for carry forward of Tax or duty credit under any existing law or on goods held in stock on the appointed day. Sub-rule 1 of Rule 117, reads as under:

*Every registered person entitled to take credit of input tax under section 140 shall, within ninety days of the appointed day, submit a declaration electronically in FORM GST TRAN-1, duly signed, on the common portal specifying therein, separately, the amount of* ***"eligible duties and taxes as defined in explanation to section 140"*** *to which he is entitled under the provisions of the said section:*

The said rule provides for carry forward of only **eligible duties and taxes** as defined in the explanation to section 140. Eligible duty has been defined in the explanation to section 140 with reference to sub sections i.e. 140 (3,4,5&6). The definition of eligible taxes does not include the EC, SHEC and KKC. The usage of word "eligible duties and taxes" in the latter part of the Rule has confined the scope of carry forward of credit by excluding the EC, SHEC and KKC within its ambit.

Further, GST Guidance Note 11 on Transitional Provisions, para 11.04 with respect to the Transfer of credits of cesses such as Education Cess, Secondary and Higher Education Cess, Swatch Bharat Cess

and Krishi Kalyan Cess states that "The Transitional provisions under the CGST Act allow carryover of only the Cenvat Credit and Credit of eligible duties mentioned in the explanations given at the end of section 140. Education Cess & Secondary and Higher Education Cess are not mentioned there. Therefore these will not be carried forward as credit of these cesses is not allowed under GST.

Letter D.O. F. No. 267/8/2018-CX.8 Dated: 14th March, 2018 issued by the Board with respect to the issue of Transitional Credit, under GUIDANCE NOTE ON CGST TRANSITIONAL CREDIT, para 4.2: Check 2: "Credit of taxes not covered in the definition of eligible duties in section 140 cannot be availed. Example: Krishi Kalyan Cess, Education Cess, etc. Instances have also come to notice where credit of VAT and PLA balance has been availed as transitional credit. This is not allowed in law".

Further in an FAQ issued by the government on the said issue, in response to the question *"Whether closing balance of education cess and secondary higher education cess prior to 1st Mar 2015 can be carried forward in GST?" has been answered as follows:-*

*"No it will not be carried forward in GST as it is not covered by definition of "eligible duties and taxes" under Section 140 of the CGST Act".*

**06.** In view of the deliberations as held hereinabove, we pass the order as under :

**ORDER**

**(under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)**

**NO.GST-ARA-25/2017-18/B-** 34 **Mumbai, dt.** 19.05.2018

For reasons as discussed in the body of the order, the question is answered thus -

Q1. *How to avail input tax credit for excise duty paid under Rule 3(5B) of the Cenvat Credit Rules?*

Ans. Not answered as this question is withdrawn by the applicant at the time of proceedings of hearing of the case.

Q2. **Whether we are eligible to avail input tax credit against unutilised cenvat credit such as Education cess, Secondary &Higher secondary Education cess & Krishi Kalyan cess lying in our books of Accounts?**

**Ans. Answered in the negative.**

**PLACE - Mumbai**

**DATE -** 19/5/2018

-sd-
**B. V. BORHADE**
**(MEMBER)**

-sd-
**PANKAJ KUMAR**
**(MEMBER)**

CERTIFIED TRUE COPY

MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
3. The Chief Commissioner of Central Tax.

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai - 400021