REGISTERED / AD

FAX : 0532-2400149

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 10/05/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70462/2017-SM[BR] dated 05/05/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the Central Excise and Salt Act, 1944.

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/1854/2010	**VARUNA SULPHONATORS LTD.** GANGOTRI, RAVINDRAPURI EXTENSION, VARANASI (U.P.)
		Name and Address of Respondent
2		-C.C.E. KANPUR 117/7, Sarvodaya Nagar, Kanpur 208005.

Copy To

3Advocate(s) / Consultant(s):

Kamaljeet Singh (Proxy Counsel)
J-144, PATEL NAGAR -I,
GHAZIABAD,
UTTAR PRADESH

4 Bar Association, CESTAT, Allahabad

5 Director Publications, Customs, Excise. I.P. Estate, Delhi

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

12 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

13 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

14 C.D.R. 15 Office Copy 16 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. E/1854/2010-EX[SM]

(Arising out of Order-in-Appeal No.242-CE/APPL/KNP/2010 dated 15/04/2010 passed by Commissioner of Central Excise & Customs (Appeals), Kanpur)

Varuna Sulphonators Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Kanpur **Respondent**

Appearance:

Shri Kamaljeet Singh (Proxy Counsel) for Appellant
Shri Rajeev Ranjan JC(AR), for Respondent

CORAM:

Hon'ble Mr. Anil Choudhary, Member (Judicial)

Date of Hearing : 05/05/2017
Date of Decision : 05/05/2017

FINAL ORDER NO.....70462/2017.........

Per: Anil Choudhary

The issue in this appeal is whether under the facts and circumstances, the extended period of limitation have been rightly invoked.

2. The brief facts as evident from the show cause notice are that the appellant is a manufacturer a Detergent Powder and they clear their final product as per the order given by M/s Hindustan Lever Limited on payment of duty. Whereas in the course of audit conducted by the officers of Central Excise during June, 2007 for the period June 2006 to May 2007 it was observed that the assessee had cleared

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polypack (inner) that is packing material of a quantity of 5,25,000 pieces for putting stickers thereon from M/s Lexus Techno Graphics Pvt. Ltd. Kanpur without observing procedure for job work and without issue of excise invoice and accounting in their stock register and duty paying documents evidencing reversal of duty equivalent to credit of duty involved thereon. They have also not maintained any register and challans prescribed for the job work. However, as per the chart showing return of the goods after job work, goods were received back in full. In this regard the assessee vide letter dated 27.08.2007 had themselves admitted the technical mistake. Thereafter, on such facts it appeared to Revenue that the appellant is liable to penal action under Rule 25 of the CER, 2001 for contravening the provisions of Rule 16 A of CER, 2001.

3. The learned counsel for the appellant urges that, from the admitted facts it is evident that the transaction was duly recorded in the books of accounts and further, the packing material cleared for job work have admittedly being received back in the factory and utilized for clearance of dutiable final products. In this view of the matter, there is no leakage of duty sa~~m~~ve and except some venial breach of the provisions of job work. In this view of the matter, there being no allegation of fraud, suppression of facts etc., the show cause notice dated 24 July, 2009 for invoking the extended period is void and unsustainable. Accordingly, he prays for setting aside the impugned order with the consequential benefits.

4. The learned AR for the Revenue has relied on the impugned order.

5. Having considered the rival contentions I find that no ground for invocation of extended period of limitation is made out. Accordingly, in view of the admitted facts, I allow this appeal holding that the extended period of limitation was not invocable under the facts and circumstances. The appellant shall be entitled for the consequential benefits in accordance with law. I further observe that the Assistant Commissioner in the Order-in-Original has observed - "so far as the question of imposition of penalty is concerned, I observe that the duty was not paid due to matter of interpretation and there was no fraud or collusion on the part of the party/appellant to evade payment of duty involved, no penalty can be imposed under Section 11AC of the Act.

(Dictated and pronounced in Court)

-Sd/-
(ANIL CHOUDHARY)
Member(JUDICIAL)

Ankit

प्रमाणित प्रति/Cerified True Copy
16/05/2017
सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण/(C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001