

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

Dated: 05/12/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71094/2016-EX[DB] dated 30/11/2016

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/3177/2006	INDICA CHEMICAL INDUSTRIES(P)LTD C-6, Sector-63, Noida
		Name and Address of Respondent
2		-C.C.E.MEERUT Mangal Pandey Nagar, Meerut.

Copy To

3 Advocate(s) / Consultant(s): SH RAJESH CHIBBER, ADV
 FA-9 KAVI NAGAR
 GHAZIABAD

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 ICAI 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 AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

Appeal Nos.E/3177/2006-EX[DB]

Arising out of Order-in-Appeal Nos.80-81-CE/MRT-I/2006 dated 20.06.2006
passed by Commissioner (Appeals) Customs & Central Excise, Ghaziabad.

M/s Indica Chemical Industries (P) Ltd.

...APPELLANT(S)

VERSUS

Commissioner of Central Excise, Meerut.

...RESPONDENT (S)

APPEARANCE:

Shri Rajesh Chhibber, Advocate for the Appellant (s)
Shri T.K. Sikdar, Asstt. Commr. (AR) for the Department

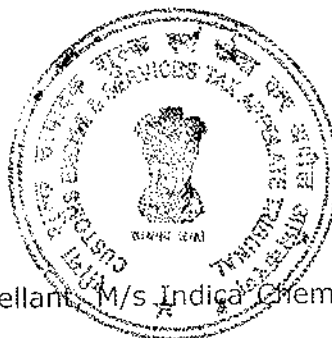
CORAM:

HON'BLE SHRI JUSTICE DR. SATISH CHANDRA, PRESIDENT
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

DATE OF HEARING:- 30.11.2016

FINAL ORDER No.- 71094/2016

Per Dr. Satish Chandra:



The present appeal is by the appellant M/s Indica Chemical Industries (P) Ltd., against the impugned Order-in-Appeal Nos.80-81-CE/MRT-I/2006 dated 20.06.2006. The period is involved May-June, 1997.

2. The brief facts of the case are that the assessee is engaged in the manufacture of Expanded Perlite Powder, which was supplied to BOC India Ltd. against PO and paid duty in terms of the said PO. On 13.11.1997, department inspection was taken place at the factory. After the gap of 5 years, the show cause notice was issued

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in the year 2002 i.e. 15.03.2002. The department by show-cause-notice has demanded the duty of Rs.27,569/- only. Being aggrieved, the appellant has filed present appeal.

3. With this background, heard Shri Rajesh Chhibber learned counsel for the assessee and Shri T.K. Sikdar Ld. Counsel for the Department.
4. After hearing both the parties and on perusal on record, it appears that in the instant case, the inspection was taken place on 13.11.1997, but the show cause notice was issued on 15.03.2002, after almost 5 years of inspection. No cogent reasons have been mentioned for extended the period. No circumstances are emerging from the impugned order to invoke the extended period. By keeping in mind, observations made by the Hon'ble Supreme Court in the case of Uniworth Textile reported at 2013(288) ELT 161 (SC), we are of the view that the show-cause-notice is time barred, hence, not sustainable in the eye of law. The same is set aside. In the result, the appeal filed by the assessee is allowed with consequential benefits.

(Dictated & pronounced in the open Court on)


(Anil G. Shakkarwar)

Member (Technical)

Mishra


(Justice Dr. Satish Chandra)

President

प्रमाणित प्रति / Certified True Copy


सहायक रजिस्ट्रार / Asstt. Registrar
सीमांचुक्क, चण्डीगढ़ एवं सेवा कर
अपील अधिकरण / (C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001

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