FAX : 0532-2400149

REGISTERED / AD

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

Dated: 30/08/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70813/2017-EX[DB] dated 31/07/2017

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/141/2007	**KISAN SAHKARI CHINI MILLS LTD.** Sampurnanagar, Distt. Lakhimpur Kheri, Uttar Pradesh.
		Name and Address of Respondent
2		-C.C.E. LUCKNOW 7-A, Ashok Marg, Lucknow.

Copy To

3Advocate(s) / Consultant(s):

Vikrant Kackria
KAKARIA & ASSOCIATES, SCF-55, 2nd FLOOR, SECTOR 8, PUNCHKULA, HARYANA
Panchkula,
Haryana

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/141/2007-EX[DB]

(Arising out of Order-in-Appeal No. 130-CE/LKO/06 dated 16/10/2006 passed by Commissioner of Central Excise, Service Tax& Customs (Appeals), Lucknow)

M/s Kisan Sahkari Chini Mills Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Lucknow **Respondent**

Appearance:

Request for Adjournment, for Appellant
Shri Gyanendra Kumar Tripatthi, Asstt. Commr. (AR), for Respondent

CORAM:

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

Date of Hearing : 31/07/2017
Date of Decision : 31/07/2017

FINAL ORDER NO.–70813/2017.....

Per: Anil G. Shakkarwar

The present appeal is directed against Order-in-Appeal No. 130-CE/LKO/06 dated 16/10/2006 passed by Commissioner of Central Excise, Service Tax & Customs (Appeals), Lucknow. On call the appellant was absent.

2. The brief facts of the case are that appellant cleared 856.2 MTs from free sale sugar quota and paid Central Excise duty as applicable for levy sugar @ Rs.52/- per quintal instead of Rs.85/-per quintal chargeable to sugar under

category of free sale. It resulted in short levy of Central Excise duty of Rs.2,82,546/- during the period from December, 1997 to March, 1998. The appellant paid the said duty during the month of July, 2001. The appellant was issued with a show cause notice dated 25.11.2002 proposing recovery of duty, interest and imposition of penalty. The matter was adjudicated through the Order-in-Original dated 12.08.2005, wherein the original authority had confirmed the demand and ordered the appellant to pay appropriate interest and imposed a penalty of Rs.1,00,000/- on the appellant under Rule 173-Q of Central Excise Rules, 1944. Aggrieved by the said order, appellant preferred appeal before the Commissioner (Appeals). Learned Commissioner (Appeals) decided the appeal through the impugned Order-in-Appeal dated 16.10.2006, wherein the learned Commissioner (Appeals) has noted that duty was paid before the issuance of show cause notice and relying on the ruling of this Tribunal in the case of Rashtriya Ispat Nigam Ltd. Vs Commissioner of Central Excise, Visakhapatnam reported at 2003 (161) ELT 285, as affirmed by Apex Court, set aside penalty imposed in the original authority. Aggrieved by the said order, appellant is before this Tribunal.

3. Learned Counsel for appellant has filed time petition and the same is dismissed as he prayed earlier for the same on the similar grounds.

4. Heard the learned A.R. who has briefed the facts of the case.

5. We have gone through the records of the case and we find that the duty was discharged by the appellant and penalty has been set aside by the learned Commissioner (Appeals). The only issue remains is payment of interest by appellant in the present case. We find that when the duty is paid late, i.e. after the due date as provided under Section 11AB of Central Excise Act, 1944, interest at the prescribed rate, has to be paid. Therefore, we do not find any reason to interfere with the impugned Order-in-Appeal dated 16.10.2006.

6. Accordingly, we dismiss the appeal filed by the appellant.

(Dictated in Court)

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

-Sd/-
(ANIL G. SHAKKARWAR)
Member(TECHNICAL)

akp

सत्यापित प्रति/Certified True Copy
05/09/17
सहायक पंजीकार/Asstt. Registrar
सीमा शुल्क, उत्पाद शुल्क एवं सेवा कर
अपील अधिकरण(C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001