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: 02/01/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70020/2018-SM[BR] dated 01/01/2018

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/70090/2016	**Seksaria Biswan Sugar Factory Ltd** Biswan SITAPUR UP
		Name and Address of Respondent
2		C.C.E. & S.T.-Lucknow 7-A...ASHOK MARG, LUCKNOW, UTTAR PRADESH-226001

Copy To
3Advocate(s) / Consultant(s):

K.VAISH &CO
KRISHNA JANKI
PALACE,35-C,RAMPUR
GARDEN,BAREILLY
U.P.

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, Opp ICICI Bank of Defence Colony 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 Second Folder Copy 17 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

REGIONAL BENCH : ALLAHABAD

COURT No. 2

APPEAL No. E/70090/2016-EX[SM]

(Arising out of Order-in-Original No. 31/Commissioner/Rem/LKO/2015 dated 26/10/2015 passed by Commissioner of Central Excise & Service Tax, Lucknow)

M/s Seksaria Biswan Sugar Factory Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Lucknow **Respondent**

Appearance:

Shri Kapil Vaish, (CA), for Appellant
Shri Mohd. Altaf, Assistant Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing & Date of Decision : 03/11/2017

FINAL ORDER NO. 70020/2018

Per: Anil G. Shakkarwar

The present appeal is arising out of Order-in-Original No. 31/Commissioner/Rem/LKO/2015 dated 26/10/2015 passed by Commissioner of Central Excise & Service Tax, Lucknow.

2. The brief facts of the case are that the appellants were engaged in the manufacturing of Sugar & Molasses falling under Tariff Item No. 17 of Central Excise Tariff Act, 1985. The Molasses were stored in steel tanks. Through an application dated 18/03/2013, the appellant reported to Commissioner that over a period from 21/11/2011 to 11/03/2013, there was a storage loss of 1.63% of Molasses which involved Central Excise duty of Rs.6,75,884/-. They sought remission for said duty under the provisions of Rule 21 of the Central Excise Rules, 2002. They also submitted that the said loss was less than 2% which was permitted as

per standing C.B.E.C. Circular No. 261/15/82/CX-8 dated 18/07/1983 & Circular dated 06/02/1982. The said issue was adjudicated by Commissioner. The ld. Commissioner has refused to remit and reject the application holding that if tank wise record was checked then in one tank the loss was more than 2%. He has also held that since the loss was not reported within 24 hours, the application was not admissible. Aggrieved by the said order appellant is before this Tribunal.

3. Heard both the parties and perused the facts on record.

4. The said C.B.E.C. Circular No. 261/15/82/CE-13 dated 18/07/1983, has clarified that storage loss of Molasses up to 2% is condonable, when Molasses are stored in Pucca Pits or Steel Tanks. I find that the loss stated in the said application dated 18/03/2013 was less than 2%. Therefore, the said loss was condonable. The reasons stated by the ld. Commissioner for rejecting the application are not tenable in law. I, therefore, set aside the Order-in-Original dated 26/10/2015 and allow remission of duty applied for through said application dated 18/03/2013. In above terms, the appeal filed by the appellant is allowed. The appellant shall be entitled for consequential relief, as per law.

(Dictated & Pronounced in Court)

Sd/-
Anil.G. Shakkarwar
Member(Technical)

Ansari

प्रमाणित प्रति/Certified True Copy
21/02/18
सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पाद शुल्क एवं सेवा कर
अपील अधिकरण/C.E.S.T.A.T.