

TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/3145 -3146/2004EX

Date 12/11/2007

Assistant Registrar
C.E.S.T.A.T, New Delhi

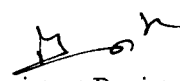
To :
M/S SHIV GRAMODYOG SANSTHAN
M/S SHIV GRAMODYOG SANSTHAN,236,
CHAUBEYPUR KALAN, KANPUR.

M/S SHIV GRAMODYOG SANSTHAN

C.C.E. KANPUR


Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 560-561/07 dated 04-10-07
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
C.C.E. KANPUR
THE COMMISSIONER OF CENTRAL EXCISE,
KANPUR, 117/7, SARVODYA NAGAR, KANPUR.
2. Adv. / Consult
MR.AMIT AWASTHI
113/145, SWARUP NAGAR, KANPUR-208002
3. ~~C.D.R.~~
4. ~~J.C.D.R.~~
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, marg. 43, saket. New
7. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301
9. R. Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,
12. Co, Law Institution
13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file


Assistant Registrar
(Excise Appeal Branch)

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
NORTH ZONAL BENCH AT NEW DELHI**

APPEAL No. E/3145-46/04

(Arising out of Order-in-Original No. 118-119/CE/APPL/KNP2004 dated 29.2.2004 passed by Commissioner of Central Excise (Appeals), Kanpur)

For approval and signature:

Hon'ble Ms. Jyoti Balasundaram (Vice President)

Hon'ble Mr. K.K. Agarwal, Member (Technical)

-
- | | | | |
|----|---|---|------|
| 1. | Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? | : | No |
| 2. | Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? | : | Yes |
| 3. | Whether Their Lordships wish to see the fair copy of the Order? | : | Seen |
| 4. | Whether Order is to be circulated to the Departmental authorities? | : | Yes |
-

Shiv Gram Udyog Sansthan

Appellant

Vs.

Commissioner of Central Excise, Kanpur

Respondent

Appearance:

None for appellant
Shri C.S. Rajput, DR

CORAM:

Hon'ble Ms. Jyoti Balasundaram, Vice President
and
Hon'ble Mr. K.K. Agarwal, Member (Technical)

Date of Decision: 4.10.2007

Final ORDER NO.....*5.60/2007.E.X.*
56/2007EX

Per: Ms. Jyoti Balasundaram, Vice President

The issue for decision in the present appeal is whether the appellants herein are eligible to the benefit of exemption in terms of Notification 89/95-CE dated 18.5.95 and 88/88 CE dated 1.3.98 to Spent Sulphuric Acid arising during the course of manufacture of Acid Slurry. According to the assessee, the Spent Acid is a waste and therefore entitled to the benefit of exemption in terms of 89/95 which exempts scrap arising in the course of manufacture of goods are falling under CET sub-heading no. 2807.00 provided that nothing contained in the notification shall apply to waste and scrap arising in the factory in which goods other than exempted goods are also manufactured. The claim to the benefit of 88/88 is on the ground that the Spent Acid is used further in the manufacture of detergent cake and detergent powder. However, the claim to this benefit cannot be accepted for the reason that the Spent Acid cannot be considered as goods consumed in the manufacture of detergent cake and detergent powder and further, the appellants have cleared Spent Acid from their factory and therefore requirement of captive consumption either within their factory of production of goods specified at Sr. no. 1 to 27 of the table to notification 88/88 as per serial no. 28 or in any other factory of the same manufacturer where the exemption under this notification is available, does not stand complied with.

2. For these reasons, we hold the benefit under notification is not available, uphold the impugned order and reject the appeals.

(Dictated in Court)

(K.K. Agarwal)^{1c}
Member (Technical)

(Ms. Jyoti Balasundaram)
Vice President