

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

EXCISE APPEAL BRANCH

Appeal No. *E/S/1351/07 IN*
E/1698/2007

Date 05/10/2007

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

To :
M/S CADBURY INDIA LTD.

PLOT NO 25, MALANPUR INDL. AREA, VILLAGE
GURIKHA, TEHSIL GOHAD, DISTRICT BHIND-477117,
MP

M/S CADBURY INDIA LTD.

Appellant

Vs

C.C.E. INDORE

STAY ORDER NO. 993/07-EX

Respondent

I am directed to transmit herewith a certified copy of Final order No. *500/2007-EX* dated *11-9-07*
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

Moh
Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

C.C.E. INDORE

MANIK BAGH PALACE, POST BOX NO. 10, INDORE
452001 (M.P.)

2. Adv. / Consult

SH. M.P. BAXI, ADV.,
C/O APPELLANT

3. S.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

Moh
Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
COURT NO.III

Excise Stay Application No.1351 of 2007 in
Appeal No.E/1698 of 2007

(Arising out of Order-in-Appeal No.ST/Adj.I/03/04-05 dated 24.1.2007 of the Commissioner of Central Excise, Indore).

For approval and signature:

Hon'ble Dr. T.V.Sairam, Member (Technical)

Hon'ble Mr. P.K. Das, Member (Judicial)

- | | | |
|----|---|-----|
| 1. | Whether Press Reporters may be allowed to see the order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? | Yes |
| 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? | See |
| 4. | Whether Order is to be circulated to the Department Authorities? | Yes |

M/s.Cadbury India Limited

...Appellant

Versus

CCE, Indore

.....Respondent

Appearance:

Shri M.P. Baxi, Advocate for the appellant.

Shri Sanjay Kumar (JDR), Authorised Departmental Representative for the respondent.

Final Order No. 500/2007 EX /Dated: 11.9.2007

STAY Order No 993/2007 EX

Per Dr. T.V. Sairam:

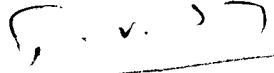
The applicant has filed an appeal challenging the order of the Commissioner of Central Excise, Indore made on 24.1.2007. In the impugned order, the Commissioner has observed that the appellant had failed to provide complete details of the invoices about which the jurisdictional Central Excise Authorities had written to them vide letter dated 31.8.2006. They had also failed to furnish all the details of the invoices mentioned in the reply to the show cause notice at Annexure-VIII. In view of this, the credit taken by the appellants amounting to Rs.1,80,55,972/- was disallowed and ordered to be recovered in terms of Rule 14 of the CENVAT Credit Rules, 2004 read with Section 11 A of the Central Excises Act, 1944. In addition to charging interest, they have also imposed penalty of Rs.10 Lakhs on the appellant under Rule 15 of the CENVAT Credit Rules, 2004.

2. Having heard both the sides and perused the records, we find that "though the appellants have availed the CENVAT Credit, they have not sufficiently specified the authorities by way of documents, which could be correlated for availing such credit". We observed that the penalty imposed on the appellants appears to be uncalled for. In view of the fact to meet the ends of justice, it is directed that the matter has to be remanded to the

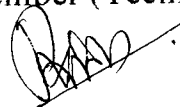


adjudicating authority and the appellants be given yet another opportunity to prove their points. Accordingly, we set aside the impugned order with the direction that Rs.52,76,904/- paid by the appellants on 7.9.07 as deposit shall remain with the Revenue till the final decision of the matter. While passing an adjudication order, adequate opportunities be given to the appellants to come-forward with the material evidence. The stay application is accordingly disposed of. The appeal is allowed by way of remand.

Order dictated & pronounced in open Court on 11.9.2007.



(Dr. T.V. Sairam)
Member (Technical)


(P.K. Das)
Member (Judicial)

Ckp.