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

Date 10/09/2007

Appeal No. E/2543/2004


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

To :  
M/S PAWAN LAKSHMI PROCESSORS  
35-36-B, TEXTILE CO. ROAD,  
INDL. AREA-A, LUDHIANA  
M/S PAWAN LAKSHMI PROCESSORS

Appellant  
Vs  
Respondent

C.C.E. LUDHIANA

I am directed to transmit herewith a certified copy of Final order No. 491/07-EX. dated 17-7-07  
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

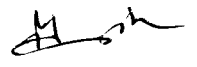
  
Assistant Registrar  
(Excise Appeal Branch)

Copy to :

1. Respondent  
C.C.E. LUDHIANA  
CENTRAL EXCISE HOUSE, 'F' BLOCK, RISHI NAGAR,  
LUDHIANA 141001 (PUNJAB)
2. Adv. / Consult

NONE

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)

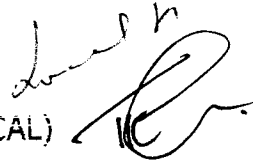
IN THE CUSTOMS, EXCISE & SERVICE TAX  
APPELLATE TRIBUNAL, NEW DELHI  
PRINCIPAL BENCH, NEW DELHI  
COURT NO. II

**Excise Appeal No. 2543 of 2004**

(Arising out of Order-in-Appeal No. 589/CE/Appl/Ldh/2003 dated 21.10.2003 passed by the Commissioner of Central Excise (Appeals), Ludhiana)

For approval and signature

HON'BLE MR. S.S. KANG, VICE PRESIDENT  
HON'BLE MR. T.K. JAYARAMAN, 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?        |    |
| 2. Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? | 10 |
| 3. Whether their Lordships wish to see the fair copy of the order?                                                                      |    |
| 4. Whether order is to be circulated to the Departmental authorities.                                                                   |    |

M/s Pawan Lakshmi Processors

Appellant

Vs.

CCE, Ludhiana

Respondent

Appearance:

None

- For appellant

Shri V.K. Agrawal, DR

- For respondent

CORAM:

HON'BLE MR. S.S. KANG, VICE PRESIDENT

HON'BLE MR. T.K. JAYARAMAN, MEMBER (TECHNICAL)

Date of Hearing: 17.7.07

Final Order No. 491/2007 EX dated 17-7-07

Per S.S. Kang :

Heard Id. SDR. None appeared on behalf of the appellant.

2. The appellant filed this appeal against the impugned order whereby demand of Rs. 22,425/- was confirmed and the unaccounted goods were also ordered to be confiscated and the same were released on redemption fine and the personal penalty was also imposed.

3. The only contention of the appellant in the appeal memo is that the show-cause notice was issued for confiscation of the unaccounted goods found in the factory and there is no proposal in the impugned order for recovery of the duty amount. The adjudicating authority confiscated the goods and the same were released on redemption fine but also confirmed the demand. The contention is that the adjudication order is beyond the scope of the show-cause notice. When the appellant filed appeal before the Commissioner (Appeals), the Commissioner (Appeals) passed an ex-parte order and disposed the appeal. The contention is that as the proposal in the show-cause notice is only for confiscation of the goods. There was no occasion to

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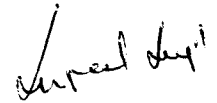
the appellant to contest the quantum of duty, therefore, the demand is not sustainable. The appellant also submitted that the Commissioner (Appeals) in a similar situation in the case of **M/s Neelam Dyeing and Printing House** vide Final Order dated 7.12.2003 allowed the benefit of Notification No. 3/2001 to the assessee and demanded duty on the dyed yarn @ 2.50 per kg. The contention is that the appellants are also situated in the same situation as they are buying the duty paid yarn, therefore, are entitled for the benefit of notification.

4. We find that in this case show-cause notice was issued in respect of unaccounted goods found in the factory, the appellants are not contesting the confiscation order. The only contention is that demand confirmed in the adjudication order is beyond the scope of show-cause notice. We find that it is settled law that unaccounted goods found in the factory are liable for confiscation. In respect of quantum of demand, we find that Commissioner (Appeals) in the case of **Neelam Dyeing and Printing House** allowed the benefit of notification. Once the goods are confiscated and allowed to be redeemed on payment of redemption fine automatically

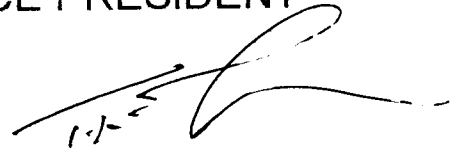
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the goods are to be cleared on payment of appropriate duty.  
Therefore, the impugned order confirming the demand is set  
aside. The appeal is disposed of as indicated above.

(Dictated & pronounced in open Court)



(S.S. KANG)  
VICE PRESIDENT



(T.K. JAYARAMAN)  
MEMBER (TECHNICAL)

RM