

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/1448-50/07 IN*
E/1810/2007-1812/2007

Date 14/08/2007

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

To :
POLYMER PAPERS LTD. (THROUGH COUNSEL
C.HARISHANKAR & S.SUNIL)
9TH BHOPA ROAD, MUZAFFARNAGAR, U.P.

POLYMER PAPERS LTD. (THROUGH COUNSEL
C.HARISHANKAR & S.SUNIL)

Appellant

C.C.E. MEERUT I

Vs
Respondent

STAY ORDER NO. 874-876/07-EX.

I am directed to transmit herewith a certified copy of Final order No. *447-49/07-EX.* dated *20-7-07*
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

(Signature)
Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
C.C.E. MEERUT I
EXCISE CHOWK, UNIVERSITY ROAD, MANGAL
PANDEY NAGAR, MEERUT - 250005.
2. Adv. / Consult
MR.C.HARISHANKAR
46, BANK ENCLAVE, DELHI-110092
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

(Signature)
(MOHINDER SINGH)
Assistant Registrar
(Excise Appeal Branch)

1 SHRI T.K. TIWARI-WORKS MANAGER, POLYMER PAPERS LTD. (THROUGH COUNSEL SHRI
C.HARISHANKAR) MUZAFFARNAGAR, U.P.
2 SHRI ANIL SUNEJA FINANCIAL CONTROLLER-CUM-ASSTT. CO. SECY. POLYMER PAPERS LTD.
12/6 MATHURA ROAD, FARIDABAD

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No.2, R.K. Puram, New Delhi-110066.
Principal Bench, New Delhi**

COURT NO. II

**Excise Stay Application Nos. 1448-1450 of 2007 in Appeal
Nos. 1810-1812 of 2007**

[Arising out of the Order-in-Original No. 19/Commr/Mrt-I/2007 dated 29/03/2007 passed by The Commissioner of Central Excise, Meerut - I.]

M/s Polymer Papers Ltd.]
Shri T.K. Tiwari, Works Mgr.] Appellant
Shri Anil Suneja, FC-cum-ACS]

Versus

CCE, Meerut - I Respondent

Appearance

S/Shri C.M. Chandrasekhar, Sr. Advocate and S. Sunil Advocate - for the appellant.

Shri V.K. Agrawal, Authorized Representative (DR) - for the respondent.

CORAM: Hon'ble Shri S.S. Kang, Vice President
Hon'ble Shri T.K. Jayaraman, Member (Technical)

DATE OF HEARING : 20/07/2007.

Final Order No. 447-449/07ex Dated: 20/7/07
Stay order No 874 - 876 /07

Per. S.S. Kang :-

Applicant filed this application for waiver of pre-deposit of duty of Rs. 50,39,219/- and penalties. The issue involved in this appeal is the valuation of the goods captivity consumed.

2. The contention of applicant is that the relevant record has ²¹²⁰⁰signed by the revenue in the year 2003. There after applicants received a show cause notice dated 05/08/05 and which was for demand of duty of Rs. 40 lakhs approximately. There after addendum to show cause notice was issued which was received by the applicant on 01/02/07 whereby demand was increased to Rs. 50 lakhs. The contention of applicant is that the impugned order passed ex-party as applicant made a specific request for adjournment on the ground that the re-conciliation statement, be supplied to the applicant. On their repeated requests vide letter dated 06/03/07 the re-conciliation statement was supplied and there after applicant asked for time and without considering the request and the impugned order was passed on 28/03/07. The contention is that as the relevant document on which the demand was raised is supplied to applicant on 06/03/07 and there after applicant

vide letter dated 19/03/07 asked for adjournment on the ground that they need more time as the re-conciliation statement was received by them on 06/03/07. The applicant contention is that the applicant only requested to fix the case in the end of April 2007. In spite of this, the adjudication order was passed without hearing the applicant on 29/03/07. Therefore, the impugned order was passed in violation to the natural justice.

3. The learned SDR on behalf of the respondent relied upon the findings of the authority in support of the demand and also submitted that show cause notice was issued in the year 2005 and the applicant had not filed any reply, therefore, ultimately the impugned order was passed on merits.

4. We find, in this case the show cause notice issued on 05/08/05 and addendum to the show cause notice was issued on 27/01/07 vide which the ^{quantum of the} ~~question of~~ demand was raised. The applicant filed numerous letters asking for copies of relied upon documents. The copies of the letters on records. Applicant also repeatedly asking for re-conciliation statement on the basis on which the duty was quantified. The statement

was supplied to the applicant on 16/03/07, thereafter applicant made a request to the adjudicating authority and requested for fix the case in the end of April 2007. The adjudicating authority, however, passed the order on 29/03/07 on merits.

5. Keeping in view of the facts and circumstances of the case as the relevant document was supplied to the applicant on 06/03/07 and the adjudication order was passed ex-party on 29/03/07, in spite of the request for adjournment made by the applicant, ~~the impugned order is~~ the impugned order is set aside after waiving the pre-deposit of duty and penalties and the matter is remanded to adjudicating authority to decide the afresh after affording the opportunity of hearing to the applicants. Appeals are disposed of by way of remand.

(Dictated and pronounced in the open court)

(S.S. Kang)
Vice President

(T.K. Jayaraman)
Member (Technical)

PK