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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

Appeal No. E/3293-94/2004 Date 11/02/2008

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

To :
SARJOO SAHKARI CHINI MILS LIMITED

SARJOO SAHKARI CHINI MILLS LIMITED
BELRAYAN. DISTRICT LAKHIMPUR KHERI (U.P.)

SARJOO SAHKARI CHINI MILS LIMITED Appellant

Vs

C.C.E. NOIDA Respondent

I am directed to transmit herewith a certified copy of Final order No. 46-47/2008- Excise dated 06-2-08 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. NOIDA
   C.C.E. NEW DELHI, 17-B, I.P. ESTATE, IAEA HOUSE, NEW DELHI.
2. Adv. / Consult
   ~~MR. VINAY GARG~~
   ~~C-253, 1ST FLOOR DEFENCE COLONY, NEW DELHI~~
   SH. BIPIN GARG, ADV.
   B-1/1289-A, VASANT KUNJ,
   N. DELHI-70
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 Publictions (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. 3293-3294 of 2004

(Arising out of Order-in-Original No. 01/Commissioner/2004 dated 31.1.04/5.3.04 passed by the Commissioner, Central Excise, Noida)

For approval and signature

HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE MR. P. KARTHIKEYAN, 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?**	
3.	**Whether their Lordships wish to see the fair copy of the order?**	
4.	**Whether order is to be circulated to the Departmental authorities.**	

Sarjoo Sahkari Chini Mills Ltd. Appellant

Vs.

CCE, Noida Respondent

Appearance:
Shri Bipin Garg, Advocate - For appellant
Shri Sanjay Kumar, SDR - For respondent

CORAM:
HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE MR. P. KARTHIKEYAN, MEMBER (TECHNICAL)

Date of Hearing: 6.2.2008

Final Order No. 46-47/08-EX dated 6-2-08

Per S.S. Kang:

Heard both sides. On merit, we find that the issue is covered against the appellant by the decision of the Tribunal in the case of **Kisan Sahkari Chini Mills Ltd. Vs. CCE** reported in 2007 (208) ELT

415. In view of the above decision of the Tribunal, the demands are upheld.

2. In respect of penalty of equal amount imposed in the impugned order, the contention of the appellant is that the present impugned order is passed in pursuance to the remand order passed by the Tribunal. The contention is that in the earlier proceedings, the adjudicating authority imposed the penalty of Rs. 15,000/- and Rs.20,000/- whereas on remand the impugned order was passed and penalty of equal amount has been imposed. The contention in the remand proceeding, ~~but~~ in absence of challenge to the penalty imposed by the first adjudication order, quantum of penalty cannot be enhanced. We find merit in the contention of the appellant hence enhancement of penalty in the remand proceeding, in absence of challenge by the Revenue, is not sustainable. Keeping in view the facts and circumstances of the case, we set aside the enhanced penalties. The appellants are liable to penalty of Rs.15,000/- and Rs.20,000/-. The impugned order is modified to that extent only. The appeals are disposed of as indicated above.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

(P. KARTHIKEYAN)
MEMBER (TECHNICAL)

RM