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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/3913/2004 Date 21/05/2008

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

To :
U.P. STATE SUGAR CORPORATION LTD.

M/S U.P. STATE SUGAR CORPORATION LTD.
KHADDA DISTT. KUSHI NAGAR
274802

U.P. STATE SUGAR CORPORATION LTD. Appellant

Vs

C.C.E. ALLAHABAD Respondent

I am directed to transmit herewith a certified copy of **Final order** No. 250/2008 **Excise** dated 24-4-08

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. ALLAHABAD

THE COMMISSIONER OF CENTRAL EXCISE ALLAHABAD. 38, M.G. MARG, CIVIL LINES, ALLAHABAD

2. Adv. / Consult

MR.BIPIN GARG

B-1/1289,A-VASANT KUNJ, NEW DELHI

3. D.R.
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017
7. M/s Centax Publictions (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)
9. Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar,Chennai 60017
13. Taxindiaonline.com Pvt.Ltd, 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. 3913 of 2004-Ex.

(Arising out of Order-in-Appeal No. 573-CE/ALLD/2004 dated 1.6.04 passed by the Commissioner (Appeals), Central Excise, Allahabad)

For approval and signature

HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE MR. RAKESH KUMAR, 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 would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
3.	Whether their Lordships wish to see the fair copy of the order?	Yes
4.	Whether order is to be circulated to the Departmental authorities.	No

U.P. State Sugar Corporation Ltd. Appellant

Vs.

CCE, Allahabad Respondent

Appearance:
Shri Bipin Garg, Advocate - For appellant
Shri C.S. Rajput, DR - For respondent

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

Date of Hearing: 24.4.2008

FINAL Order No. 250/08-EX dated............

Per S.S. Kang:

Heard both sides.

2. The appellant filed this appeal against the impugned order passed by the Commissioner (Appeals) whereby refund claim filed by the appellant was rejected.

3. The brief facts of the case are that the appellants are engaged in the manufacture of sugar. The appellant applied for permission of storage of non-duty paid sugar in outside the bonded store room due to the shortage of storage space in the premises. The permission was granted by the Commissioner of Central Excise on certain conditions one of the condition was that the appellant to deposit amount for supervision charges. The appellant deposited the amount as per the order of permission. The appellant also availed the facility granted by the Commissioner of Central Excise and thereafter filed a refund claim on the ground that the supervision charges are not payable as per the board's circular. The adjudicating authority rejected the refund claim. The appellant filed appeal and the same was dismissed.

4. The only contention of the appellant is that the supervision charges are not payable as per the board's circular, therefore, they are entitled for refund.

5. We find that the appellant asked for concession which was granted on certain conditions. The appellant availed the concession on fulfilment of the conditions

without challenging the condition imposed under the permission granted by the Commissioner of Central Excise. The appellant filed a refund claim challenging the condition imposed in the permission letter which according to us is not permissible. The appellant asked for concession which was granted on condition and after availing the concession appellant cannot challenge the condition imposed under the permission letter by way of filing refund. If the appellant had any grievance they should not have accepted the condition or challenged the condition at that time. In these circumstances, we find no merit in the appeal, the same is dismissed.

(Pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

RM