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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/951 /2008 with E/S/904/08 Date 12/06/2008

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

To :
M/S PARLE BISCUITS PVT. LTD.

36.8 K.M, DELHI ROHTAK ROAD, VILLAGE
SANKHOL,
BAHADURGARH.

M/S PARLE BISCUITS PVT. LTD. Appellant

Vs

C.C.E. ROHTAK Respondent

I am directed to transmit herewith a certified copy of **Final order No333/08 ,S.O.NO.613/08.** **Excise** dated 30-5-08

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. ROHTAK

   SCO NO,6 SECTOR 1, ROHTAK.

2. Adv. / Consult

   MR. V. LAXMIKUMARAN

   B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029

3. S.D.R.

~~4. J.C.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)

CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI, COURT NO.1

EXCISE STAY APPLICATION NO. 904 OF 2008 IN EXCISE APPEAL NO. 951 OF 2008

Date of Hearing/Decision: 30.5.2008

M/s. Parle Biscuits (P) Ltd. — Applicant
[Rep. by: Shri Ravi Raghavan,Advocate]

Versus

CCE, Rohtak — Respondent
[Rep.by:Shri H.K. Thakur,JCDR]

STAY ORDER NO 613/08-EX
FINAL ORDER NO 333/08-EX

Coram: Hon'ble Mr. Justice S.N. Jha, President
Hon'ble Mr. Rakesh Kumar, Member (Technical)

Per Justice S.N. Jha

After hearing the parties we are of the view that as the main issue involved in this appeal has not been gone into the Commissioner (Appeals), the matter is fit to go back for fresh decision. The issue is whether raw materials, namely, BOPP film, printing material and BOPP lamination paper used for making packaging material are 'inputs' within the meaning of Rule 2(k)& (g) of the Cenvat Credit Rules so as to be eligible for the benefit of cenvat credit in the facts of the case, even though the intermediate product, namely, BOPP wrapper is exempt from payment of central excise duty.

2. We are given to understand that apart from the above issue other issues like whether the process amounts to 'manufacture' within the meaning of Section 2(f) of the Central Excise Act and whether duty demand itself is time barred, are also involved in this appeal. We have not gone into those questions and we do not express any opinion on those issues as, today, we only heard the parties on the point of stay.

3. We accordingly, after waiving the requirement of pre-deposit of the amounts of duty and penalty, set aside the impugned order of the Commissioner dated 13.2.2008 and remand the matter back to him for fresh decision in accordance with law.

[Dictated and pronounced in the open Court]

[Justice S.N. Jha]
President

[Rakesh Kumar]
Member (Technical)

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