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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/4284/2004 Date 25/06/2008

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

To :
M/S ORIENT PAPER MILLS
AMLAI PAPER MILLS, DISTT. SHAHDOL (M.P.)
484117

M/S ORIENT PAPER MILLS Appellant
Vs
C.C.E. BHOPAL Respondent

I am directed to transmit herewith a certified copy of **Final order No.**380/08 **Excise** dated 19-6-08
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. BHOPAL
48, ADMINISTRATIVE AREA, AREA HILLS, HOSHANGABAD ROAD, BHOPAL (M.P.)
2. Adv. / Consult
MR.K.K ANAND
A-5,BASEMENT,LAJPAT NAGAR-III NEW DELHI-24
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 & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No.4284/04 -(BR)

(Arising out of order in appeal No.372/cE/BPL/2004 dated 25.5.04 passed by the Commissioner of Central Excise (Appeals), Bhopal)

For approval and signature:

Hon'ble Mr. M. Veeraiyan, Member(Technical)
Hon'ble Mr.P.K. Das, Member(Judicial))

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 should 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 ? Seen

4. Whether Order is to be circulated to the Departmental authorities? Yes

M/s Orient Paper Mills — Appellant
(Rep. by Shri Hemant Bajaj, Advocate)

Vs

CCE, Ludhiana — Respondent
(Rep. by Shri H.K. Thakur, Jt CDR)

Coram: Hon'ble Mr. M. Veeraiyan, Member(Technical)
Hon'ble Mr P.K. Das, Member(Judicial)

Date of Hearing: 19.6.08

FINAL Order No. 380/08-Ex /2008-~~SM~~(BR)

Per M. Veeraiyan:

Heard both sides.

2. The appellant has two units; they sent certain raw materials/capital goods from one of their units to the other unit during 1.7.2000 to 28.2.2002. They, at the time of sending the goods from the first unit, reversed the Cenvat credit already taken by them. The Department has held that during the relevant period, the goods have to be assessed as if manufactured by the appellant and the value should be determined on the basis of cost of production plus 15% profit margin and the actual procurement price of the goods by the first unit should be treated as cost of production. There is no dispute about the rate of duty to be applied. Accordingly, Department demanded differential duty of Rs. 17,037/- and imposed penalty of Rs. 17,037/-. The learned Advocate relied upon the decision of the Larger Bench of the Tribunal in the case of Eicher Tractors Vs CCE Jaipur reported in 2005 (189) ELT 131 in support of his submission that in such a case, the value should be determined under Rule 11 of the Valuation Rules and that the purchase price by the first unit should be adopted as assessable value for the purpose of paying the duty.

3. We are in agreement with the views expressed by the learned Advocate. We allow the appeal with consequential relief.

(Order dictated and pronounced in the open Court).

(M. Veeraiyan)
Member(Tech)

(P.K. Das)
Member(Judl)

MPS*