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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/4770/2004 Date 28/07/2008

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

To :
M/S S.R. FRAGRANCES LTD. (NOW M/S DHARAMPAL SATYAP
A-85,86, SEC 2, NOIDA

M/S S.R. FRAGRANCES LTD. (NOW M/S DHARAMPAL SATYAP — Appellant

Vs

C.E. CHANDIGARH — Respondent

I am directed to transmit herewith a certified copy of **Final order No**.533/2008- Excise dated 24/7/08

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. CHANDIGARH

   PLOT NO 19, SEC 17-C, CHANDIGARH
2. Adv. / Consult
   ~~MR V LAKSHMI KUMARAN~~
   ~~B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029~~
   SH. T R. RASTOGI, ADV.,
   SD-84, TOWER APPARTMENT
   PITAMPURA, DELHI-88
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,
West Block No.2, R.K.Puram, New Delhi-110066

Court No.III

Date of hearing: 15.7.2008

Central Excise Appeal No.4770 of 2004

Arising out of the Order in original No.60-63/CE/2004 dated 15.7.2004 passed by the Commissioner , Central Excise, Chandigarh.

For Approval and Signature:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. M. Veeraiyan, Member (Technical)

1	Whether Press Reporter 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 CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
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

Appellants | Respondent

M/s S.R.Fragrance Ltd.
(now M/s Dharampal Satyapal Ltd.)

vs.

C.C.E.,
Chandigarh

Appearance:

Shri T.R. Rastogi, Advocate for the appellant(s) and
Shri C.S. Rajput, Authorized Departmental Representative (DR) for the Revenue

Coram: Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. M. Veeraiyan, Member (Technical)

Final Order No. 533/2008-EX

Per Archana Wadhwa:

The appellants are manufacturing unbranded pan masala as well as branded pan masla. The unbranded pan masala is being consumed by them captively in the manufacture of final product i.e. branded pan masala. With effect from 1.3.2001, National Calamity Contingent Duty (NCCD) was introduced. The dispute relates to confirmation of said duty in respect of unbranded pan masala used captively during the period 1.3.2001 to 30.1.2001 on the ground that Notification No.67/95-CE dated 16.3.95, which exempts unbranded pan masala from payment of duty on account of captive consumption does not ~~stand~~ specif~~ied~~y ~~in~~ NCCD as one of the duties. As such, duty stands confirmed against the appellants on the ground that no exemption for captive consumption in respect of the said duty was available in respect of unbranded pan masala.

2. After hearing both sides, we find that the unbranded pan masala was admittedly being used captively in the manufacture of branded pan masala, which was being cleared on payment of NCCD. Apart from the fact that whether such consumption, which only requires packing unbranded pan masala in polythene pouches carrying brand name would amount to manufacture or not, We find that the entire exercise is revenue neutral, whatever duty was payable (if at all) on the unbranded pan masala was available as modvat credit to the appellant to be utilized for payment of NCCD on branded pan masala. It is seen that the appellant had paid more duty on the branded pan masala than the duty required to be paid on the unbranded product. As such, we are of the view that the entire exercise is revenue neutral and the demand of duty is required to be set aside on this

ground itself. We order accordingly and allow the appeal with consequential relief to the appellant(s).

(The operative part of the order was pronounced in the open Court)

(Archana Wadhwa)
Member (Judicial)

(M. Veeraiyan)
Member (Technical)

scd/