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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/5019/2004,5635/2004-5640/2004 Date 28/07/2008

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

To :
M/S THE DHAMPUR SUGAR MILLS LTD.
DHAMPUR,(NR) DISTT.-BIJNOR,U.P

M/S THE DHAMPUR SUGAR MILLS LTD. Appellant
Vs
C.C.E.MEERUT-II Respondent

I am directed to transmit herewith a certified copy of **Final order** No. 517-523/08- **Excise** dated 21-7-08
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.MEERUT-II
   SHEED PARK,NEAR ASHOK KI LAT,DELHI ROAD MEERUT
   U.P
2. Adv. / Consult SH. BIPIN GARG, & SH. ATUL GUPTA, 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. 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)

P.T.O.

1 M/S DHAMPUR SUGAR MILLS LTD.
DHAMPUR (N.RLY)DISTT.BIJNOR U.P
246761

2 M/S DHAMPUR SUGAR MILLS LTD.
DHAMPUR (N.RLY)DISTT.BIJNOR U.P
246761

3 M/S DHAMPUR SUGAR MILLS LTD.
DHAMPUR (N.RLY)DISTT.BIJNOR (U.P)
246761

4 M/S DHAMPUR SUGAR MILLS LTD.
DHAMPUR (N.R) DISTT.BIJNOR(U.P)

5 M/S DHAMPUR SUGAR MILLS LTD.
DHAMPUR N.R DISTT.BIJNOR U.P

6 M/S DHAMPUR SUGAR MILLS LTD.
DHAMPUR (N.RLY)DISTT.BIJNOR U.P
246761

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI PRINCIPAL BENCH, COURT NO. III

Excise Appeal Nos. 5019 & 5635 to 5640 of 2004

[Arising out of Order-in-Appeal No. 94-100/CE/MRT-II/2004 dated 11.5.2004 passed by Commissioner (Appeals) Central Excise, Meerut II.]

For approval and signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. D.N.Panda, Member (Judicial)

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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

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M/s. The Dhampur Sugar Mills Ltd. Appellant

Vs.

Commissioner of Central Excise Meerut II Respondent

Appearance: Mr. Bipin Garg & Shri Atul Gupta, Advocate & Company secretary for the Appellant
Mr. M.M.Singh, DR for the Respondents

CORAM:

Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. D.N.Panda, Member (Judicial)

Date of decision : 22.7.2008

Final **ORDER NO. 517-523/2008-Ex**

Per M. Veeraiyan (for the Bench):

1. These seven appeals arise out of a common order in appeal No. 94-100/CE/MRT-II/04 dated 11.5.04.

2. Heard both sides.

3. The Commissioner (Appeals) disposed of seven appeals, details of which are as follows:

S.No.	Appl.No. & date	Order-in-Original No. & date	Period	Amount of duty confirmed by way of disallowing modvat credit.(Rs.)	Amount of penalty imposed.
1.	437/2001 dt.23.7.01	8/MBD/2001-02 dt.14.6.01	July-95	1,48,507/-	25,000/- under Rule 173Q
2.	307/2002 Dt.18.3.02	56-59/Dem/2001-02 dt.29.11.01		18,88,657.94	15,00,000/- under Rule 173Q(1)(bb)
3.	513/2002 dt 29.5.2002	64-66/Dem/MBD /01-02 dt.22.3.02		25,24,741.79	10,00,000/- under Rule 173Q (1)
4.	554/2002 dt.14.6.2002	77-80/MBD/Dem /01-02 dt.9.4.02		3,97,097/-	NIL

5.	555/2002 dt.14.6.02	73-76/MBD/Dem /01-02 dt.9.4.02	Feb.99 to March 99	65,320/-	NIL
6.	577/2002 dt.25.6. 02	82-85/MBD/Dem /01-02 dt.30.4.02	April, 99 to March 2000	14,26,190/-	NIL
7.	907/2002 dt.1.11.02	20/JC/2002 dt.5.7.2002	02.05.1997	23,850/-	50,000/- under Rule 173Q(1)

4. The Commissioner (Appeals) passed stay order No. 20-26 /CE/MRT-II/04 dated 31.3.04, by which the appellant was directed to pay the entire amount within one month of the stay order and they failed to do so. The Commissioner (Appeals), thereafter, vide his final order dated 11-05-2004 rejected the above appeals for not complying with the provisions of Section 35(F) read with the stay order.

5. The appellant paid a sum of Rs.6,34,744/- on 30.9.04 towards duty in four of these cases and also the penalty of Rs.50,000/- imposed in the case referred in S.No. 7 above.

6. Against the orders of the Commissioner dated 11.5.04, dismissing the appeals for non-compliance of Section 35F, the appellant filed appeals before the Tribunal and the Tribunal vide their combines stay orders No. S-40-43/05-C Misc.M/20-28/05-C dated 18.1.05 directed the appellant to deposit an additional amount of Rs.6 lakhs within six weeks from that date and the compliance of the order has been noted as on 24.3.05.

7. Both sides agree that the Commissioner (Appeals) has not decided on merits the seven appeals which were before him. The Tribunal's stay order dated 18.1.05 stands complied with. In view of the above, we deem it proper to set aside the orders of the Commissioner (Appeals) and remit the matter to the Commissioner (Appeals) for considering all the appeals afresh on merits. He shall hear the appeals without insisting on any further deposit. He shall also grant reasonable opportunity of personal hearing to the appellant before deciding the appeals.

8. The appeals are allowed by way of remand on the above terms.

(Dictated & pronounced in the open Court)

(M. Veeraiyan)
Member(Technical)

(D.N.Panda)
Member(Judicial)

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