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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/4188/2004-4189/04 Date 25/07/2008

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

To :
U.P. STATE SUGAR & CANE DEVELOPMENT CO. LTD.
CHHITAUNI, DISTT. KUSHINAGAR - 273414

U.P. STATE SUGAR & CANE DEVELOPMENT CO. LTD. Appellant

Vs

C.C.E. ALLAHABAD Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 515-516/2008-**Excise** dated 22-7-08

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. ALLAHABAD
   38, M.G. MARG, CIVIL LINES, ALLAHABAD
2. Adv / Consult
   MR.BIPIN GARG
   B-1/1289,A-VASANT KUNJ, NEW DELHI
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 600017
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: 16.7.2008

Central Excise Appeal Nos.4188 to 4189 of 2004

Arising out of the Order in appeal No.247-CE/Appl/KNP/04 dated 23.5.04 passed by the Commissioner (Appeals), Customs & Central Excise, Kanpur, (UP).

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?	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

Appellants — Respondent

U.P. State Sugar & cane Development Corporation Ltd. vs. C.C.E., ALLAHABAD

Appearance:

Shri Atul Gupta, C.S. for the appellant(s) and
Shri V.K. Agrawal, 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. 515-516/2008-EX

Per Archana Wadhwa:

The duty stands confirmed against the appellants on the ground that the free sale sugar was cleared by them as levy sugar, as per release order issued by the Directorate of Sugar, Govt. of India, New Delhi. It is on record that such clearance was in terms of the directions of National Federation of Co-operative Sugar Factories Ltd., New Delhi.

2. Learned Advocate appearing for the appellants does not dispute the duty confirmation and submits that the same stands paid by them. However, he submits that there was no suppression on their part and as such, the facts should not attract any penalty, in terms of the earlier order of the Tribunal in the case of Shravasti Kisan Sahkari Chini Mills Ltd. vide Final Order No.543/06-NB-A dated 7.5.2004.

3. By adopting the ratio of the above decision while confirming the demand of duty, we set aside the personal penalty imposed upon the appellants in both the cases. Both the appeals are allowed.

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

(Archana Wadhwa)
Member (Judicial)

(M. Veeraiyan)
Member (Technical)

scd/