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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/5294/2004 Date 02/09/2008

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

To :
C.C.E.MEERUT-II

SHEED PARK,NEAR ASHOK KI LAT,DELHI
ROAD,MEERUT (U.P)
C.C.E.MEERUT-II

Appellant
Vs
Respondent

M/S KESAR ENTER[RISES LTD.

I am directed to transmit herewith a certified copy of **Final order** No. 661/08-EX **Excise** dated 28-8-08

passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
   M/S KESAR ENTER[RISES LTD.
   BAHERI DISTT.BAREILLY(U.P)
2. Adv. / Consult SH. KAPIL VAISH, B-51, BUTLER PLAZA, CIVIL LINES, BAREILLY (UP)
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. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15
15. Office Copy
16. Guard file

Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI

COURT – II

EXCISE APPEAL NO. 5294 OF 2004

[Arising out of Order-in-Appeal No. 156-CE/MRT-II/2004 dated 30.07.2004 passed by the Commissioner (Appeals), Customs & Central Excise, Meerut-II]

For approval and signature:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. Rakesh Kumar, Member (Technical)

1.	Whether Press Reporters may be allowed to see the order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3.	Whether their Lordships wish to see the fair copy of the order?	
4.	Whether order is to be circulated to the Departmental authorities?	

CCE, Meerut-II — Appellant

Vs.

M/s. Kesar Enterprises Ltd. — Respondents

Appearance:

Shri Surender Shah, Departmental Representative, for the Revenue;
Shri Kapil Vaish, C.A. for the respondents

Coram:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. Rakesh Kumar, Member (Technical)

Date of Hearing: 26th August, 2008

FINAL ORDER NO. 661/08-EX **dated** _________

Per S.S. Kang:

The appellants filed this appeal against the impugned order whereby the Commissioner (Appeals) has held as under:-

"the Modvat Credit was admissible on the levy molasses used in the manufacture of rectified spirit which was thereafter used for the manufacture of Indian made foreign liquor (IMFL) (non excisable) and they were liable to pay the amount at the rate of 8% on the value of the rectified spirit being cleared for manufacture of IMFL in terms of Rule 57CC of the Rules as the said rule was applicable to their case."

2. Contention of the Revenue is that the respondents are not entitled for credit in respect of molasses exclusively used in the manufacture of country liquor a non-excisable commodity. We find that this issue is already settled by the Tribunal in the respondent's own case i.e. CCE, Lucknow vs. Kesar Enterprises, reported in 2001 (130) ELT 93 (Tri.-Del.) & Kesar Enterprises Ltd. vs. CCE, Lucknow, reported in 2002 (147) ELT 293 (Tri.-Del.). In these cases the Tribunal held that the present respondents are entitled to avail Modvat credit on the levy molasses and they are liable to pay duty @ 8% on the value of rectified

spirit being cleared for the manufacture of IMFL. In view of the above decisions we find no merit in the appeal. The same is dismissed.

(Pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

Dated 28th August, 2008
RK