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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/146 /2007 Date 22/08/2008

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

To :
JAI BHARAT CROP CHEMICAL PVT. LTD.
LANE NO.3, PHASE-II SIDCO INDISTRIAL COMPLEX
BARI BRAHMANA, JAMMU
JAI BHARAT CROP CHEMICAL PVT. LTD. Appellant
Vs
C.C.E. JAMMU Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 620/08-EX **Excise** dated 4-8-08

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

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
C.C.E. JAMMU
JAMMU & KASHMIR, JAMMU
2. Adv. / Consult
MR.P.C.JAIN
332, ARAVALI APARTMENTS, ALAKNANDA, NEW DELHI-19
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-110066.
Principal Bench, New Delhi.

E/146/07-Ex.

[Arising out of Order-in-Original No.10/Comm/CE/J&K/06 dt.27.10.06 passed by the Commissioner of Central Excise, Jammu)

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 Department Authorities:	:

M/s. Jai Bharat Crop Chemical Pvt. Ltd. Appellant

Versus

CCE, Jammu Respondent

Appearance

Shri P.C.Jain, Adv. For appellant
Sh. M.M.Singh, Authorised Departmental Representative(DR) For respondent

Coram: Hon'ble Mr. S.S.KANG, VICE PRESIDENT
Hon'ble Mr. RAKESH KUMAR, MEMBER TECHNICAL

Date of decision: 4.8.08
FINAL Order No. 620/08 – EX

Per S.S.Kang:

Heard both sides. The appellant filed this appeal against impugned order whereby benefit of Notification No.56/02-CE dt.14.11.02 was disallowed on the ground that the appellant's factory was not situated in the area covered under Bari Brahmana Industrial Area as per the notification.

2. The contention of the appellant is that earlier the revenue was of the opinion that their factory is situated at Khasra No.1123 of Bari Brahmana which is not specified under the notification. Subsequently, the appellant made a representation and on actual demarcation of the area, a detailed report was submitted by the Addl. Dy. Commissioner ~~somehow~~ to the effect that the factory of the appellant i.e. M/s. Jai Bharat Crop Chemicals Pvt. Ltd. is operational and functional at Khasra No.1117 of village Bari Brahamana Tehsil Samba. The appellant submitted that in view of the certificate issued by the revenue authorities, the subsequent refund claim was allowed by Commissioner(Appeals) by order-in-appeal No.221-233/CE/Apl/Jal/08 dt.30.4.08. The contention is that as for the subsequent period, the benefit of notification is allowed, therefore, the impugned order is not sustainable.

3. The contention of the Revenue is that at the time of passing of the adjudication order, there was some confusion regarding the situation of the factory. The opinion of the revenue is that their factory is situated at

Khasra No.1123 of Bari Brahamana which is not covered under the notification. Therefore, the impugned order was rightly passed.

4. We find that benefit of notification was denied only on the ground that the factory of the appellant is not covered under the notification as the Khasra number of the factory is not specified in the notification. Now to this effect, a certificate has been issued by the Addl. Dy. Commissioner, Samba after demarcation. As per the certificate, the factory of the appellant is functional at Khasra No.1117 of village Bari Brahamana Tehsil Samba. Further we find that for subsequent period, Commissioner(Appeals) allowed 13 appeals filed by the appellant and allowed the benefit of notification in question vide order-in-appeal No.221-233/CE/Apl/Jal/08 dt.30.4.08 after taking into consideration the certificate issued by Addl. Dy. Commissioner, Samba. In view of this, the impugned order is not sustainable, hence set aside and the appeal is allowed.

Order dictated in the open Court.

(S.S.Kang)
Vice President

(Rakesh Kumar)
Member Technical

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