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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/743 /2008 - EX[DB]     Date 10/11/2008

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

To :
M/S R.K.MARBLE PVT. LTD.
MADANGANJ,KISHANGARH (AJMER)

M/S R.K.MARBLE PVT. LTD.     Appellant
Vs
C.C.E. JAIPUR II     Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 839/2008- **EX[DB]** dated 05-8-08 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. JAIPUR II
   N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.
2. Adv. / Consult
   MR.BIPIN GARG
   B-1/1289,A-VASANT KUNJ, NEW DELHI
3 S.D.R
~~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 - 3
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
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-1
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 – 110 066.**
**Principal Bench, New Delhi**

**COURT NO. II**
**Excise Appeal No. 743 of 2008**

[Arising out of the Order-in-Original No. 04/2008/CE/JP-II/Commissioner dated 28/01/2008 passed by The Commissioner, Central Excise, Jaipur – II.]

For Approval and signature :
**Hon'ble Shri S.S. Kang, Vice President**
**Hon'ble Shri 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 R.K. Marble Pvt. Ltd. — Appellant

Versus

CCE, Jaipur – II — Respondent

**Appearance**

Shri Bipin Garg, Advocate – for the appellant.

Shri C.S. Rajput, Authorized Representative (DR) - for the Respondent.

CORAM:**Hon'ble Shri S.S. Kang, Vice President**
**Hon'ble Sh. Rakesh Kumar, Member (Technical)**

**DATE OF HEARING : 05/08/2008.**

Final Order No. 839/08-EA Dated : ____________

**Per. S.S. Kang :-**

Heard both sides. Appellant filed this appeal against the impugned order, whereby the marble slabs on which some processes were undertaken just to fill the cracks were held to be classified under Chapter 68 of the Central Excise Tariff.

2. The contention of appellant is that they are engaged in the slitting of marble blocks ~~in which~~ slabs and the appellants are paying duty on marble slabs by classifying under Chapter 25 of the Central Excise Tariff. During slitting there are cracks in certain slabs and on such slabs ~~reason is apply~~ to strengthen the slabs and ~~the part of slab~~ fibre netting is fixed for reinforcement for the purpose of transportation. The contention is that at ~~the tim~~e when the slab ~~was~~ further used the fibre netting is removed. The contention is that the process~~ed~~ undertaken by the appellant does not amount to manufacture as the remain~~ing~~ marble slabs ~~and the same~~ classifiable under Chapter Heading 25 of the Central Excise Tariff. The appellant relied upon the decision by the Tribunal in the case of **Nitco Tiles Ltd. vs. Commissioner of Central**

**Excise, Mumbai – II** reported in **2004 (165) E.L.T. 50 (Tri. – Mumbai)**.

3. Contention of revenue is that as per chapter note 1 of Chapter 25 of the Central Excise Tariff, th~~e provi~~sion which are in the crude state or which have been washed, ~~crude state are~~ ~~covered as~~ in the present case, the slabs in question are processed by applying ~~raises~~ resin and reinforce~~ment~~ with the fibre netting, and therefore, the same are not covered under Chapter 25. The Chapter 68 of the Tariff specifically covered the articles of ~~sculptor~~, cement ~~under~~ Heading No. 6802.21 covers other monumental or building stones. The contention is that as the appellant undertaken the process of dressing of Marble Blocks, Sawing Process, Netting Process, Crack Filling & Resin Treatment and Tiling process, therefore, the processes undertaken by the appellant amounts to manufacture as the marble slabs will not remain the marble in the crude form ~~slab~~. In these circumstances, the goods ~~are~~ in question are rightly classifiable under Chapter 68 of the Central Excise Tariff. We find, the appellant are engaged in the manufacture of Marble Slabs and clearing the same under the Chapter 25 of the Central Excise Tariff. During the process of slitting, the blocks into slabs 10 to 12% marble slabs there are some cracks. The appellant undertakes

provided the covers the products

crushed, ground etc.

but not the products which have been roasted, calcined or mixed or subjected to processing beyond that mentioned in each heading, which

stone, plaster, etc., and

the process such as applying Resin, Sawing and also applying fibre netting at the back and also filling the cracks. The Revenue's contention is that the process undertaken by the appellant amounts to manufacture and the resultant product is classifiable under Chapter 68 of the Tariff. We find that this issue ~~comes~~ came before the Tribunal in the case of Nitco Tiles Ltd. (Supra) wherein the Tribunal held that the process of polishing, Resin ~~quoting~~ coating and fibre glass reinforcement of marble slabs does not amount to manufacture. In the present case, the appellant are undertaking the similar processes, therefore, the ratio of above decision is applicable, in the facts of the present case. In view of the above decision, the impugned order is set aside. The appeal is allowed.

(Dictated and pronounced in open court)

**(S.S. Kang)**
**Vice President**

**(Rakesh Kumar)**
**Member (Technical)**

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