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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/4285/2004 - EX[DB] Date 20/10/2008

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

To :
M/S THE SUKHJIT STARCH & CHEMICALS LTD.
PHAGWARA (PUNJAB)

M/S THE SUKHJIT STARCH & CHEMICALS LTD. Appellant
Vs
C.C.E. JALANDHAR Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 760/08- **EX[DB]** dated 05-9-08 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. JALANDHAR
   PLOT NO 19, SEC 17-C, CHANDIGARH
2. Adv. / Consult
   MR.A C JAIN
   103-PUSHPANJLI, BHC MARG, 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 - 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
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Assistant Registrar
(Excise Appeal Branch)

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

Excise Appeal No. 4285 of 2004

(Arising out of Order-in-Appeal No. 290/CE/Apl/Jal./2004 dated 30.6.2004 passed by the Commissioner (Appeals), Central Excise, (Jalandhar), Chandigarh)

- 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.	

M/s The Sukhjit Starch & Chemicals Ltd. — Appellant

Vs.

CCE, Chandigarh — Respondent

Appearance:
Shri A.C. Jain, Advocate - For appellant
Shri M.M. Singh, DR - For respondent

CORAM:
HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE MR. RAKESH KUMAR, MEMBER (TECHNICAL)

Date of Hearing: 5.9.2008

FINAL Order No. 760/08-08 dated............

Per S.S. Kang:

Heard both sides.

2. The appellant filed this appeal against the impugned order whereby the product dextrose anhydrous is classified under Chapter 29 of the Tariff. The contention of the appellant is that dextrose anhydrous is a chemically pure and in the powder form and the same is used for food and pharmaceutical industries. The contention is that during the period 1.10.99 to 28.2.2000, the Revenue wants to classify the same under Chapter 29 of the Tariff whereas prior to this period and after this period the appellants are classifying the same under Chapter Heading 17.02 of the Tariff and the Revenue has not raised ~~raising~~ any objection. The contention is also that in the show-cause notice, the Revenue wants to classify the same under sub-heading No. 2913 of the Tariff whereas the adjudicating authority held that the goods in question are classifiable under sub-heading No. 2942.00 of the Tariff. The appellant relied upon the decision of the Tribunal in the case of **CCE Vs. Tirupati Starch & Chemicals Ltd.** in Appeal No. E/2722/2004 vide Final Order No. 559/05 whereby the same product is held to be classifiable under Chapter 17 of the Tariff.

3. The Revenue relied upon the decision of the Hon'ble Bombay High Court in the case of **Tata Exports Ltd. Vs. UOI** reported in 1989 (43) ELT 245 which was followed by the Tribunal in the case of **Anil Starch Products Ltd. Vs. CCE** reported in 1996 (86) ELT 664 to submit that the goods in question are classifiable under Chapter 20 of the Tariff.

4. We find that Revenue wants the classification of the product in question under Chapter 29 of the Tariff. We find that the Tribunal in the case of **Tirupati Starch & Chemicals** (supra) after considering the decision of Hon'ble Bombay High Court which was followed by the Tribunal in the case of **Anil Starch Products** (supra) held that the product in question is classifiable under Chapter 17. The Tribunal held as under :-

> "If we revert to the Chapter 17 Heading 17.02, it is quite apparent that the dextrose which is nothing but a chemically pure glucose, stands fully covered thereunder. This heading includes other sugars, including chemically pure lactose, maltose, glucose and fructose in any form. What has been excluded by the Heading 29.40, finds inclusion in this Heading 17.02. As per the HSN Notes also, the Dextrose being nothing more than chemically pure glucose, falls within the ambit of Heading 17.02. Therefore, the view taken by the learned Commissioner (Appeals) for classifying the item in question

(Dextrose) under this heading is perfectly valid and justiciable under the law. The learned DR has no doubt referred to the judgment of the Hon'ble High Court of Bombay in the case of Tata Exports Ltd. vs. UOI- 1989 (43) ELT 245 (Bom.), wherein the Dextrose were held to be classifiable under Heading 29.01 of the Customs Tariff. But this judgment has no application to the case in hand on account of the subsequent amendment made in Chapter Heading 17 & 29. Similarly, for the reasons recorded above, the law laid down in the case of Anil Starch Products Ltd. Vs. CCE, Ahmedabad, 1996 (86) ELT 664 (T), is also not attracted to the facts of the case in hand. The learned Commissioner (Appeals) has rightly distinguished and not applied the ratio of the law laid down in the case of CCE Vs. Sukhjit Starch & Chemicals Ltd. 1994 (72) ELT 753, on account of the amendments made in the above said Headings of Chapter 17 & 29."

5. In view of the above decision, the impugned order is set aside and appeal is allowed. The appellants are entitled for consequential relief, if any, in accordance with law.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

RM