TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

CUSTOMS. EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/6232-6235/2004 - EX[DB] Date 04/02/2009

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

To :
M/S JCT LTD.
G.T.ROAD,PHAGWARA

M/S JCT LTD. Appellant
Vs
C.C.E.JALANDHAR Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 79-82/2009- **EX[DB]** dated 02-02-09 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
H.Q.AT SECTOR-17,CHANDIGARH
2. Adv. / Consult SH. VINOD AGGARWAL, ADV.,
388, ADARSH NAGAR, JALANDHAR CITY

3 C.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-15
15 Office Copy
16 Guard file

Assistant Registrar
(Excise Appeal Branch)

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

Excise Appeal No.6232-6235/2004-Excise

[Arising out of Order in Appeal No.447/CE/Jal/2004 dated 29th September, 2004 of Commissioner (Appeals), Central Excise, Jalandhar]

Date of hearing: 02.01.2009.

For approval and signature :

Hon'ble Ms. Jyoti Balasundaram, 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?	No
2	Whether it should be released under Rule 27 of the 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

M/s. J.C.T. Ltd. ... Appellant
[Represented by Mr. Vinod Agarwal, Advocate]

Vs.

CCE, Jalandhar ....Respondent
[Represented by Mr. Amit Jain SDR]

CORAM: Hon'ble Ms. Jyoti Balasundaram, Vice President
Hon'ble Mr. Rakesh Kumar, Member (Technical)

FINAL ORDER NO. 79-82/09-EX /DATED:______

Per Jyoti Balasunderam

The issue, as to whether refund of interest is permissible under the Central Excise Act and Rules which is the issue in the present case, stands settled by the decision of this Tribunal in the assessee's own case reported in 2005 (181) ELT 97, holding that, even though interest was recovered by the Department without authority of law, since interest paid was not a duty of excise, there was no provision under the Central Excise Act and Rules for the refund of the same, and the refund of such amount has to be claimed by filing a suit in Civil Court. The ld. Counsel for the appellant attempts to convince us that the decision cited (supra) does not require to be followed for the reason that it has been held by the Apex Court in the case of Sahakari Khand Udyog Mandal Ltd. Vs. CCE & Cus reported in 2005 (181) ELT 328 (S.C.) that the doctrine of unjust enrichment is that no person can be allowed to enrich himself inequitably at the expense of another and since the duty amount was collected but without authority of law and subsequently refunded interest should also be refunded under the provisions of the Central Excise Act and the Rules. However, we do not find this argument to be tenable for the reason that the claim for refund of interest stands rejected not on the ground that interest is not required to be refunded, but on the ground that claim for refund of interest does not ~~allow~~ lie under the Central Excise Act and the Rule and the claim can be ~~sued~~ filed in the Civil Court.

2. In the light of the above and following the decision of the assessee, in their own case (supra), we uphold the impugned order and reject the appeals.

(Order dictated & pronounced in the open Court on 02.01.2009)

(JYOTI BALASUNDARAM)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

aj