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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/5199/2004 - EX[DB] Date 27/02/2009

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

To :
C.C.E. BHOPAL
48, ADMINISTRATIVE AREA, AREA HILLS,
HOSHANGABAD ROAD, BHOPAL (M.P.)

C.C.E. BHOPAL Appellant

Vs

M/S STANDARD SURFACTANTS LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 150/2009- **EX[DB]** dated 20-2-09

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 STANDARD SURFACTANTS LTD.
   24-B, NEW INDL. AREA, MANDIDEEP, DISTT. RAISEN (M.P.)
2. Adv. / Consult
   MRS.RENU GUPTA,ADVOCATE
   1058, SECTOR-3, R.K.PURAM, N DELHI-22

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)

~~NARMADA TRANSMISSION PVT LTD.~~

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-III

Date of hearing/decision: 20.2.2009

Central Excise Appeal No.5199 of 2004

Arising out of the order in appeal No.268-CE/BPL/2004 dated 22.4.04 passed by the Commissioner (Appeals II), Central Excise , Bhopal.

For Approval and Signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K. Das, Member (judicial)

1	Whether Press Reporter 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 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

Appellant		Respondent
C.C.& C.Ex., Bhopal	vs.	M/s Standard Surfactants Ltd.

Appearance:

Shri Amit Jain, Authorized Departmental Representative (DR) for the Revenue and Mrs. Renu Gupta, Advocate for the respondent

Coram: Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K. Das, Member (Judicial)

FINAL Order No. 150/09-EX.

Per P.K. Das:

Revenue filed this appeal against the Order in Appeal No. 268-CE/BPL/2004 dated 22.4.04 whereby the product "LIME SHOT" scouring bar is not a soap, classified under heading No.34.05 by Commissioner (Appeals), as claimed by the respondent. Revenue claimed the classification under heading 34.01 as classified by the original authority.

2. Heard both sides and perused record.

3. It appears from the impugned order that the Commissioner (Appeals) followed the decision of the Tribunal in the case of Naga Ltd. vs. C.C.E. - 2002 (148) ELT 251 (Tri.- Chennai. Learned Advocate submits that the Hon'ble Supreme Court upheld the decision of the Tribunal as reported in 2007 (212) ELT 452 (SC). The relevant portion of the decision of the Hon'ble Supreme Court is reproduced below:

> *"5. On reading the above headings and the sub-headings we find that Heading No. 34.01 broadly refers to soap as one of the products covered by that Heading, the other product which in covered by 34.01 as 'organic surface-active product and preparation' for use as soap. These are two distinct products. We agree with the view expressed by the Tribunal that Vim Dish Wash Bar is not a soap. We also find merit in the contention advanced on behalf of the assessee that Vim Dish Wash Bar is not an organic surface-active product for use as a soap, but it is used for scouring. In the circumstances, Heading No. 3401.20 is not applicable. It is neither a soap nor an organic surface-active product* for use *as soap. Consequently, Chapter Note 2 to Chapter 34 also has no application. Further, as held by the adjudicating authority Vim Dish Wash Bar is a mixture of detergent and abrasive powders. In the circumstances, we are of the view that Rule 3(b) of the Rules of interpretation would also apply and in the present case the chemical examiners indicate that pre-dominantly the above product in question contains abrasive powder to the extent of 62% to 72%."*

4. In view of that, we do not find any reason to interfere with the order of the Commissioner (Appeals). Accordingly, the appeal filed by Revenue is rejected.

(Dictated and pronounced in the open Court)

(M. Veeraiyan)
Member (Technical)

(P.K. Das)
Member (Judicial)

scd/