

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

Appeal No. E/3902/2005-SM[BR]

Date 07/01/2008

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

To :  
M/S THE DHAMPUR SUGAR MILLS LTD  
DHAMPUR (N.R.) DISTT. - BIJNOR (U.P.)  
246761

M/S THE DHAMPUR SUGAR MILLS LTD

Appellant

Vs  
Respondent

THE COMMISSIONER OF CENTRAL EXCISE  
MEERUT-II

I am directed to transmit herewith a certified copy of Final order No.3/2008-SM[BR] dated 26.11.2007  
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

  
Assistant Registrar  
(SM Appeal Branch)

**Copy to :**

1. Respondent

THE COMMISSIONER OF CENTRAL EXCISE  
MEERUT-II  
MANGAL PANDEY NAGAR, MEERUT-II

2. Adv. / Consult

MR. BIPIN GARG  
B-1/1289, A-VASANT KUNJ, NEW DELHI

3. S.D.R.

~~4. J.C.D.R.~~

5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, marg. 43, saket, New
7. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301
9. R.Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,
12. Co, Law Institution
13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file

  
Assistant Registrar  
(SM Appeal Branch)

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**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE  
TRIBUNAL, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH  
NEW DELHI, COURT NO. III**

**Excise Appeal No. 3902 of 2005 -SM (BR)**  
[Arising out of Order-in-Appeal No.232-CE/MRT-II/2005 dated 27.9.2005  
passed by the Commissioner (Appeals), Central Excise, Meerut].

Date of Hearing/decision: 26.11.2007

**For approval and signature:**  
**Hon'ble Mr. P.K. Das, Member (Judicial)**

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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 should 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 Dhampur Sugar Mills Ltd.,

Appellant

Vs.

CCE, Meerut

Respondent

Appearance:

Mr. Bipin Garg, Advocate for the appellant.

Mr. A.K. Rastogi, Authorized Representative (DR) for the respondent

CORAM: **Mr. P.K. Das, Member (Judicial)**

Per P.K. Das:

*Final ORDER No 3108-SM(CBR)*

The appellant filed this appeal against the denial of Cenvat credit on M.S. plates, S.S. plates, H.R. S.S. / B.R. S.S./C.R.S.S. Plates / Flats / Shapes and sections and steel bars etc. and Asbestos and Graphite packing.

2. The learned Advocate on behalf of the appellant submits that the Commissioner (Appeals) observed that the M.S. Plates, S.S. Plates, etc. were used for repairing and maintenance of the machinery, which were used in the manufacture of the final product. He submits that the Hon'ble Rajasthan High Court in the case of Union of India Vs. Hindustan Zinc Ltd. reported in 2007 (214) ELT 510 (RAJ) held that the credit is admissible on these items used for repair and maintenance of machinery. He further submits that Asbestos Graphite Packing were used to prevent leakage of the pipes. He submits that the Tribunal in series of decisions allowed the credit on these packing materials. He relied upon the following decisions:-

- (1) Titawi Sugar Complex Vs. CCE, Meerut  
2006 (195)ELT 243 (T-D)
- (2) KCP Sugar and Industries Ltd. Vs. CCE  
2004 (178) ELT 275 (T-B)
- (3) Final Order No.1354-1360 of 2007-SM (BR) dated 5.7.07  
In the case of The L.H. Sugar Factories Ltd.
- (4) Commissioner of Central Excise Vs. Aditya  
2007(213) ELT 304 (T-D)

4. After hearing both the sides and on perusal of the records, I find that the Commissioner (Appeals) observed that S.S. Plates, M.S. Plates, etc. were used as raw materials of the capital goods. He further observed that these items were used for repairing damaged parts of the machineries as capital goods. The Hon'ble Rajasthan High Court in the case of Hindustan Zinc Ltd. (supra) held that M.S./S.S. Plates used in workshop meant for repair and maintenance of machinery, which are used for manufacture of final products are eligible for Modvat credit. It is seen that the Hon'ble High Court dismissed the appeal filed by the Revenue on the question whether the Tribunal is right in law in allowing the Modvat credit on the items - M.S./S.S. Plates in the maintenance and repairing work of the

machinery. In any event, there is no dispute that these items were used as raw materials of the capital goods and, therefore, there is no reason for denial of the credit on these items.

5. On the denial of credit on Asbestos Graphite Packing, the Commissioner (Appeals) observed that these packings were used to prevent leakage in the pipes. It has further been alleged that these items are used as mechanical seals for not getting the heat, liquid, etc. The Tribunal in the case of KCP Sugar and Industries Ltd. (supra) held that Asbestos Graphite Packing used for preventing leakage in pipes connected with flanges to transfer cane juice from one station to another in processing plant in sugar mill are eligible for Cenvat credit. Therefore, I do not find any reason for denial of credit on these items also. Accordingly, the impugned order passed by the Commissioner (Appeals) is set aside and the appeal is allowed with consequential relief.

Order dictated & pronounced in open court on 26.11.2007.

( P.K. Das )  
Member (Judicial)

Ckp.