

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/125 /2006-SM[BR]

Date 10/01/2008

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

To :
M/S MONNET SUGAR LTD.
BLOCK UNN,SHAMLI,DISTT.MUZAFFARNAGAR(UP)

M/S MONNET SUGAR LTD.

C.C.E. MEERUT II

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 39/2008-SM[BR] dated 13.11.2007
passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
C.C.E. MEERUT II
OPP. SAHEED PARK (NEAR ASHOK KI LAT) DELHI
ROAD, MEERUT (UP)
2. Adv. / Consult
MR.K.K.GUPTA
B-137, IIND FLOOR, RAMPRASTHA, GHAZIABAD
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)

**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.125 of 2006-SM (BR)

[Arising out of order in appeal No.180-CE/MRT-I/2005 dated 30.09.2005 passed by the Commissioner (Appeals) Central Excise, Meerut]

Date of Hearing/ Decision: 13.11.2007

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? | : | } <i>yes</i> |
| 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. Monnet Sugar Ltd.

Appellants
[Rep. by Shri Pulkit Sharma, Advocate.]

Vs.

CCE, Meerut

Respondent
[Rep. by Mr. Rajmal, Authorized Representative (DR)]

Appearance:

Shri Pulkit Shah for the appellants.
Shri Rajmal, DR for the respondent/Department.

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

final Order No.....^{39/08-SM(BR)}...../Dated:13.11.2007.

Per P.K. Das:

The appellant filed this appeal against denial of credit on Jointing Sheets, Lube Oil Packing and Gland Packing as capital goods.

2. Ld. Advocate on behalf of the appellant submits that these items were used for tightening/sealing of joints of pipes of steam boiler used by them in the machineries. He relied upon the decisions of the Tribunal as under:-

- (1) KCP Sugar & Indus. Ltd. Vs. CCE, Guntur
2004 (178) ELT 275 (Tribunal-Bang.)
- (2) CCE, Meerut-II Vs. Kisan Sahkari Chini Mills Ltd.
2007 (78) RLT 820 (CESTAT-Del.)

3. Ld. DR reiterates the findings of the Commissioner (Appeals). He relied upon the decision of the Tribunal in the case of Upper Ganges Sugar & Industries Ltd. Vs. CCE, Meerut – 1998 (98) E.L.T. 166 (Tribunal)

4. After hearing both the sides and on perusal of the records, it is seen from the impugned order that these items were used for making pipes and tubes leak proof making them fast consumption items. The Tribunal in the case of KCP Sugar & Industries Ltd. (supra) held that Asbestos

packing/compressed asbestos were used for preventing leakage in pipes in processing plant eligible for Modvat credit. In the case of Kisan Sahkari Chini Mills Ltd. (supra), it has been held that packing materials used as washers in steam pipes for arresting leakage of steam are eligible capital goods. In the instant case, there is no dispute that these items were used for making the pipes leak proof. Most respectfully, following the decisions of the Tribunal, I set aside the impugned order and allow the appeal filed by the appellants

Order dictated & pronounced in open court on 13.11.2007.

(P.K. Das)
Member (Judicial)

Ckp.