

**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/893 /2006-SM[BR]

Date 10/01/2008

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

To :  
M/S DEWAN SUGAR LTD.  
AGHWANPUR, MORADABAD.

M/S DEWAN SUGAR LTD.

CCE, MEERUT-II

Appellant

Vs  
Respondent

I am directed to transmit herewith a certified copy of Final order No. 46/2008-SM[BR] dated 31.12.2007  
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

  
~~Assistant Registrar~~  
(SM Appeal Branch)

**Copy to :**

1. Respondent  
CCE, MEERUT-II  
DO
2. Adv. / Consult SHRI. KAMAL JEET SINGH ADV.  
J-144, PATEL NAGAR -I, HAZIABAD
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 & SERVICE TAX  
APPELLATE TRIBUNAL,  
WEST BLOCK NO. 2, R.K. PURAM,  
NEW DELHI**

**PRINCIPAL BENCH, NEW DELHI**

**Excise appeal No. 893 of 2006 (SM)**

[Arising out of Order-in-appeal No. 311-CE/MRT-II/2005 dated 22.12.2005  
passed by the Commissioner of Central Excise (Appeals), Meerut-II]

For approval and signature:

Hon'ble Mr. S.S. Kang, Vice President

1.	Whether Press Reporters may be allowed to see the order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	✓ S.S.K.
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. Dewan Sugar Ltd.

Appellants

Vs.

CCE, Meerut-I

Respondent

Appearance:

Shri Kamaljeet Singh, Advocate for the appellants,  
Shri B.S. Suhag, JDR for the respondent

Coram:

Hon'ble Mr. S.S. Kang, Vice President

**Date of Hearing: 31<sup>st</sup> December, 2007**

FINAL ORDER NO. 46/08-SM(BR) dated

**Per S.S. Kang:**

Heard both sides.

2. The appellants filed this appeal against the impugned order whereby the credit was disallowed in respect of iron & steel items which are used in fabrication of storage tank on the ground that the items are classifiable under heading 72.03, and have nothing to do with the manufacture of final product.

3. The contention of the appellants is that they are engaged in the manufacture of sugar and molasses and storage tank are part of their plant and are essential for the manufacture of sugar and molasses. The items of iron & steel are used in fabrication of storage tank and this fact is admitted in the impugned order. The contention is that as per <sup>CENVAT Credit Rules</sup> ~~Central Excise Rules~~ the credit in respect of inputs used in fabrication of capital goods which are further used in the manufacture of excisable goods is available. Therefore, the appellants are entitled for the credit.

4. The contention of the Revenue is that items of iron and steel are used in fabrication of storage tank and these are not specific goods under the CENVAT Credit Rules and the same are not directly used in the manufacture of their final product. Therefore, credit is rightly denied.

5. In this case the appellants availed credit in respect of iron and steel items. The same are used for fabrication of storage tank. This fact is not in dispute. Even in the reply to the show cause notice the appellants

specifically mentioned that the items in question are used for fabrication of storage tank which are further used for manufacture of sugar and molasses. As per the scope of input as defined under Rule 2 of CENVAT Credit Rules, 2002 the inputs include goods used in the manufacture of capital goods which are further used in the manufacture of final product. There is no dispute that the items in question are used in the fabrication of storage tanks which are further used in the manufacture of final product. Hence, the impugned order is set aside and the appeal is allowed.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)  
VICE PRESIDENT

Dated 1<sup>st</sup> January, 2008

RK