

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/1136/2006&3032/2006-SM[BR]

Date 14/01/2008

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

1-2) To : THE GENERAL MANAGER
M/S OSWAL OVERSEAS LTD,
TEHSIL NAWABGANJ,,DIST.BAREILLY.[U.P]

M/S OSWAL OVERSEAS LTD,

CCE,MEERUT-II

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No.66-67/2008-SM[BR] dated 14.12.2007
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
DELHI ROAD,MEERUT-II
2. Adv. / Consult
MR.KAPIL VAISH
B-51, BUTLER PLAZA, 95, CIVIL LINES, BAREILLY.
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 & SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

Excise Appeal No. 1136 & 3032 of 2006- (SM)

(Arising out of Order-in-Original No.M-42/COMM/M-05 dated 30.12.05 passed by the Commissioner (Appeals), Central Excise, 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?	
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	1 N
3.	Whether their Lordships wish to see the fair copy of the order?	
4.	Whether order is to be circulated to the Departmental authorities.	

Oswal Overseas Ltd.

Appellant

Vs.

CCE, Meerut-II

Respondent

Appearance:

Shri Kapil Vaish, CA

- For appellant

- For respondent

CORAM:

HON'BLE MR. S.S. KANG, VICE PRESIDENT

Date of Hearing: 14.12.07

FINAL Order No.....66-67/08-S.M.(BR)dated.....

Per S.S. Kang

The appellant filed these appeals against the impugned order whereby remission application was rejected and consequential demand is confirmed.

2. The appellants are engaged in the manufacture of sugar and during the manufacture of sugar the molasses is a bye-product. Molasses had come into existence the same was stored in the factory of production. The appellant filed application for remission of duty in respect of the molasses which was lost in storage during the sugar season of 2002-03. The contention of the appellant is that the storage loss is only 0.72% which is less than the permissible limit of 2%. The appellant relied upon the decision of the Tribunal in the case of **Ramla Sehkar Chinni Mills Ltd. Vs. CCE** reported in 2007 (213) ELT 361 and **Seksaria Biswan Sugar Factory (P) Ltd. Vs. CCE** reported in 2005 (179) ELT 363. The contention is that the Tribunal in these cases held that losses occurred due to storage which are less than 2% are condonable. The contention is that the remission application has been rejected on the ground that intimation regarding loss was not given to the Revenue within 24 hrs. The contention is that intimation to the Revenue within 24 hrs is given only in the case of loss of destruction of goods by natural cause or accident. In the present case, there is no such accident as, therefore, the information the remission

● application was filed at the time when the loss was detected by the appellant.

3. The contention of the Revenue is that the remission application is to be filed within 24 hrs. all occurrence of accident and Revenue relied upon the board's circular dated 1.12.84.

4. I find that in this case the appellant filed remission application for remission of duty in respect of loss of molasses which was on the ground of loss during storage. The loss is only 0.72%. The application is rejected only on the ground that the information was not given to the Revenue within 24 hrs. I find that the intimation to the Revenue within 24 hrs is only in the case loss of destruction of goods by natural cause or accident. In the present case, there is no such accident, therefore, the denial of credit on this ground is not sustainable.

5. Further, I find that a similar situation the Tribunal in the case relied upon by the appellant allowed the remission by taking into consideration the board's circular dated 18.7.83

● where it has been clarified that 2% losses in storage in respect of molasses is condonable. In view of the above decision, I find that the denial of remission of duty and consequential demand and penalty is not sustainable hence set aside. The appeals are allowed.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

RM