

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/278 /2006-SM[BR]

Date 16/01/2008

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

To :
M/S DHAMPUR SUGAR MILLS LTD.
DHAMPUR(NR),DISTT-BIJNOR(UP)

M/S DHAMPUR SUGAR MILLS LTD.

CCE, MEERUT-II

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 95/2008-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
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)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No.278/2006-SM

(Arising out of order in appeal No.258/CE/MRT-II/2005 dated 9.11.2005
passed by the Commissioner (Appeals), Customs & Central Excise,
Meerut-II)

For approval and signature:

Hon'ble Mr.P.K. Das, Member(Judicial)

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?

dw

M/s Dhampur Sugar Mills Ltd

Appellant
(Rep. by Shri Atul Gupta, Company Secy)

Vs

CCE, Meerut

Respondent
(Rep. by Shri Atul Rastogi, DR)

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

Date of Hearing: 31.12.2007

Final Order No. *95/08 JM(BR)*

Per P.K. Das:

Heard both sides and perused the record.

2. The appellant filed this appeal against the denial of credit on Welding Electrodes, Asbestos & Graphite Packing, Rubber Sheet, V Belts and Conveyor Belting etc.
3. The learned Counsel on behalf of the appellants submits that the appellant in their reply to show cause notice as well as before the Commissioner (Appeals) categorically stated that Asbestos & Graphite Packing made in the rubber sheeting for preventing the leakage. HR/SS belt, shape and section, SS sheet used as raw material to replace the Pan No.10 used for packing carrier, Conveyor belt is used as component in sugar preparation and fire safety. He submits that they had categorically mentioned that use of all the items before the lower authorities and also cited the case laws, where it has been held that these items are admissible for cenvat credit.
4. On perusal of the impugned order, I find that both the authorities below failed to discuss the use of these items, which are relevant for admissibility of Cenvat credit. It is seen that Commissioner (Appeals) observed that V Belt and Conveyor belting, Chair and chain spares, SS Stud, Steam packing, etc do not qualify the definition of input under Rule 2(g) of Cenvat Credit Rules. In my view, the adjudicating authority is required to examine the use of these items and relevant case laws as cited by the learned Counsel before taking any decision. So the impugned order is set aside and the matter is remanded to the adjudicating authority to examine the use of

these items and case laws and to pass order after hearing the appellants. The appeal is allowed by way of remand.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Vice President