

**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/229 /2006-SM[BR]

Date 01/02/2008

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

To :  
M/S WELCURE DRUGS & PHARMACEUTICALS LTD.  
1129,RIICO INDUSTRIAL AREA,PHASE-III,BHIWADI (RAJ)


M/S WELCURE DRUGS & PHARMACEUTICALS LTD.

Appellant

CCE,JAIPUR

Vs  
Respondent

I am directed to transmit herewith a certified copy of Final order No.227/2008-SM[BR] dated 10.1.2008  
passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

  
Assistant Registrar  
(SM Appeal Branch)

**Copy to :**

1. Respondent

CCE,JAIPUR

C.R.BUILDING,STATUE CIRCLE, C-SCHEME,JAIPUR

2. Adv. / Consult

MR.R. KRISHNAN

297-E, POCKET-II, PHASE-I, DELHI-110 091.

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.229/2006-SM

(Arising out of order in appeal No.448/MPM/CE/JPR.I/05 dated 7.12.05  
passed by the Commissioner (Appeals), Customs & Central Excise, Jaipur)

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?

M/s Welcure Drugs & Pharmaceuticals Ltd Appellant  
(Rep. by Shri R.Krishnan, Advocate)

Vs

CCE, Jaipur-I Respondent  
(Rep. by Shri R. Gautam, DR)

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

Date of Hearing: 10.1.2008

Per P.K. Das: Final Order No. 227/08 SM(BR)

The appellant filed this appeal against the rejection of refund claim on the ground of unjust enrichment. After hearing both the sides, I find that the appellant produced Chartered Accountant certificate alongwith copy of the

credit note and the affidavit of the Managing Director of the company in support of the contention that the duty amount was not passed to other person. It is seen from the Chartered Accountant certificate that after considering the books of account, it has been held that the appellant had not passed the duty amount to their customers. The Commissioner (Appeals) observed that the appellant had not produced the certificate before the adjudicating authority. He also observed that the certificate indicates only issue of credit notes. I find that the certificate issued by Chartered Accountant and the affidavit of the Managing Director are required to be verified by the adjudicating authority. Hence the impugned order is set aside and the matter is remanded to the adjudicating authority to decide the matter afresh after considering the evidences produced by the appellants. Needless to say, the adjudicating authority will give proper opportunity of hearing to the appellants.

(Order dictated and pronounced in the open Court).

MPS\*

(P.K. Das)  
Member(Judicial)