

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/821 /2006-SM[BR]

Date 05/02/2008

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

To :
GANGA KISAN SAHKARI CHINI MILLS LTD
MORNA, DISTT. MUZAFFARNAGAR

GANGA KISAN SAHKARI CHINI MILLS LTD

CCE MEERUT

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 253/2008-SM[BR] dated 6.12.2007
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
MANGANL PANDEY NAGAR
2. Adv. / Consult SHRI. BIPIN GARG ADV.
B-1/1289-A, VASANT KUNJ NEW DELHI-70
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)

Rs.2875/- and Rs. 36,864/- and imposed a penalty of Rs. 39,721/- under Rule 25 of Central Excise Rules and also demanded interest.

2. The contention of appellant is that Commissioner (Appeals) directed payment of Rs. 36,864/- and further directed the Assistant Commissioner to verify the debit entries. A demand of Rs. 2462/- was also ordered to be dropped on verification. That the same has already been reversed. Only demand of Rs. 3935/- is there and therefore, the appellants are not liable for penalty.

3. In respect of interest, the contention is that as the amount of credit which was already reversed was not utilized for payment of duty, therefore, the interest and penalty is not liable.

4. The appellants relied upon the decision of Punjab & Haryana High Court in the case of CCE Vs Maruti Udyog Ltd reported in 2007 (214) ELT 173. It is further submitted that the appeal filed by the revenue was dismissed by the Hon'ble Supreme Court.

5. In this case, the appellant availed credit in respect of duty paid on inputs which were not available to the appellants. The appellant filed statutory returns and had not submitted the correct cenvat figures in the return. This mistake is admitted by the appellant and the demand has already been reversed as noticed in the order in appeal. In these circumstances, I find as the appellant has submitted wrong figures regarding taking of credit in their monthly return, therefore, the appellants are liable for penalty. However, taking into consideration the facts and circumstances of the case, the penalty is reduced to Rs.10,000/-. In respect of interest, I find that the appellant claim before the lower authorities, that they had not utilized this

amount. Hence, in view of the decision of the Hon'ble Punjab & Haryana High Court in the case relied upon by appellants, the demand of interest is not sustainable.

6. The appeal is disposed of as indicated above.

(Order dictated and pronounced in the open Court).

MPS*

(S.S. Kang)
Vice President