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**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/2984- 2985 /~~2008~~<sup>2005</sup> -SM[BR]  
Assistant Registrar  
C.E.S.T.A.T, New Delhi

Date 13/02/2008

To :

(1-2) KISAN SEHKARI CHINNI MILLS LTD.  
NANAUTA, SAHARANPUR[U.P.]

KISAN SEHKARI CHINNI MILLS LTD.

Appellant

C.C.E. MEERUT I

Vs  
Respondent

I am directed to transmit herewith a certified copy of Final order No. 289- 290/ 2008-SM[BR] dated 23.1.2008  
passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

  
Assistant Registrar  
(SM Appeal Branch)

**Copy to :**

1. Respondent

C.C.E. MEERUT I

EXCISE CHOWK, UNIVERSITY ROAD, MANGAL  
PANDEY NAGAR, MEERUT - 250005.

2. Adv. / Consult SHRI. VIKRANT KACKRIA ADV.  
509, SECTOR-7, PANCHKULA[H.R.]

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 Nos. ~~2239~~, 2984-2985 /2005-SM

(Arising out of order in appeal No. 104 & 106/CE/MRT.I/05 dated 31.5.05  
passed by the Commissioner of Central Excise (Appeals), Meerut-I)

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?

NO

M/s Kisan Sahkari Chinni Mills Ltd Appellant  
(Rep. by Shri Vikrant Kackria, Advocate)

Vs

CCE, Meerut-I

Respondent  
(Rep. by Shri A.K. Rastogi, DR)

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

Date of Hearing: 23.1.2008

Final Order No. ~~289~~ ~~289~~ 290/08-SM(BR)

Per P.K. Das:

The appellants have filed these appeals against the denial of credit on welding electrodes and imposition of penalty.

2. The learned Advocate submits that the Hon'ble Rajasthan High Court in the case of Shree Cement rejected the Revenue's appeal against admissibility of credit on welding electrodes.

3. The learned DR submits that the Larger Bench of the Tribunal in the case of Triveni Engg Vs CCE Meerut reported in 2005 (186) ELT 158 and in the case of Jaypee Rewa Plant Vs CCE Raipur reported in 2003 (159) ELT 553 has held that credit is not available in respect of welding electrodes as inputs or capital goods. Hence the denial of credit on welding electrodes is upheld.

4. Regarding imposition of penalty, I find force that the denial of credit on welding electrodes is settled by the larger Bench of the Tribunal. This is an interpretation of provision of law. Therefore, penalty is not warranted and accordingly penalty is set aside.

5. In view of above, denial of credit on welding electrodes is upheld. Penalty is set aside. The appeals are disposed of in the above terms.

(Order dictated and pronounced in the open Court).

MPS\*

(P.K. Das)  
Member(Judicial)