

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/2459/2006-2461/2006-SM[BR]

Date 18/02/2008

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

To :

(1-3) M/S DWARIKESH SUGAR INDUSTRIES LTD
BUNDAKI DISTT. BIJNOR
246762

M/S DWARIKESH SUGAR INDUSTRIES LTD

Appellant

THE COMMISSIONER OF CENTRAL EXCISE
MEERUT-II

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No.300-302/2008-SM[BR] dated 11.1.2008
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

THE COMMISSIONER OF CENTRAL EXCISE
MEERUT-II
OPP. SHAHID SMARAK, DELHI- MEERUT ROAD,
MEERUT
250005


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)

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**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH
NEW DELHI, COURT NO. III**

Excise Appeal No. 2459-2461 of 2006-SM (BR)

[Arising out of order in appeal No.99-101/CE/MRT-II/06 dated 28.4.2006 passed by the Commissioner (Appeals) Central Excise, Jalandhar]

Date of Hearing/ Decision:11.01.2008

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. Dwarikesh Sugar Industries Ltd.

Appellants
[Rep. by Mr. Atul Gupta, Co.-Secretary]

Vs.

CCE, Meerut-II

Respondent
[Rep. by Mr. A.K. Rastogi, Authorized Departmental Representative (DR)]

CORAM: Mr. P.K. Das, Member (Judicial)

Final Order NO 368-362/08-SM (BR)
Dated: 11.01.2008

Per P.K. Das:

The appellant filed this appeal against denial of credit on Welding Electrodes, Packing/Asbestos packing, C.R. Coils and Electrical parts.

2. After hearing both the sides and on perusal of the records, I find that the Larger Bench of the Tribunal in the case of Jaypee Rewa Plant Vs. CCE, Raipur reported in 2003 (57) RLT 739 (CEGAT-LB) disallowed credit on Welding Electrodes. Further, the Tribunal in the case of J.K. Cement Vs. CCE reported in 2007 (211) ELT 235 (T-D), after considering the decision of the Hon'ble High Court denied credit on welding electrodes. So, the denial of credit on welding electrodes is upheld.

3. The appellants stated that the packing/Asbestos packing, etc. were used for packing of steam lines, etc. for preventing of leakage in the pipelines. The Tribunal in the case of KCP Sugar and Industries Ltd. Vs. CCE – 2004 (178)ELT 275 (T-Bangalore) allowed credit on these items used for preventing of leakage of pipes. So, the credit on packing/asbestos packings etc. is allowed. It is seen that the denial of credit on Welding Electrodes is settled by the Larger Bench of the Tribunal and, therefore, imposition of penalty is not correct.

4. In view of the above discussion, denial of credit on Welding Electrode is upheld. Credit on Packing/Asbestos Packing are allowed and penalty is set aside.

Order dictated & pronounced in open court on 11.1.2008.

(P.K. Das)
Member (Judicial)

Ckp.