

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/1978/2006-SM[BR]

Date 21/02/2008

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

To :
M/S DOIWALA SUGAR COMPANY LTD
DOIWALA, DEHRADUN (UTTRANCHAL)

M/S DOIWALA SUGAR COMPANY LTD

Appellant

THE COMMISSIONER OF CENTRAL EXCISE
MEERUT-I

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No.336/2008-SM[BR] dated 16.1.2008
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-I
MANGAL PANDEY NAGAR, MEERUT (U.P.)

2. Adv. / Consult

MR.AALOK ARORA,ADV
82-MISSION COMPOUND,SAHARANPUR (U.P.)

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.1978/2006-SM

(Arising out of order in appeal No.2/CE/MRT/I/06 dated 25.1.06 passed by the Commissioner of Central Excise (Appeals), Meerut).

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?

NC

M/s Doiwala Sugar Company

Appellant
(Rep. by Shri Alok Arora, Advocate)

Vs

CCE, Meerut-I

Respondent
(Rep. by Shri S.Gautam, DR)

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

Date of Hearing: 16.1.2008

Final Order No. 336/08-SM(BR)

Per P.K. Das:

Heard both sides and perused the records.

2. The appellant filed this appeal against denial of credit on Welding Electrodes, Asbestos Packing, Jointing sheet, HR Sheets, MS Ingots.
3. The learned Advocate submits that the Hon'ble Rajasthan High Court in the case of Union of India Vs Shree Cement rejected the appeal of the Revenue in respect of admissibility of credit on welding electrodes.
4. The learned DR submits that the Tribunal in the case of J.P. Rewa Plant Vs CCE Raipur reported in 2003 (159) ELT 512 disallowed credit on welding electrodes.
5. It is seen that the Tribunal in the case of J.K Cement Works Vs CCE Jaipur reported in 2007 (211) ELT 235 after considering the decision of the Hon'ble Rajasthan High Court, disallowed credit on welding electrodes. Therefore, denial of credit on welding electrodes is upheld.
6. It is seen that the adjudicating authority in the adjudication order observed that the items, Asbestos packing, Jointing Sheets, HR sheets, MS Angels are used for repair and maintenance of machinery parts and capital goods. The Hon'ble Rajasthan High Court in the case of Union of India Vs Hindustan Zinc Ltd reported in 2007 (214) 510 held that credit on these items used for repair and maintenance in the workshop of the factory are eligible. Respectfully following the decision of the Hon'ble Rajasthan High Court, credit on these items is allowed. The Tribunal in the case of LH Sugar Factories Ltd Vs CCE by Final Order No.1354-1360/07 dated 5.7.07 held that denial of credit on welding electrodes was decided by the Larger Bench of the Tribunal, therefore, imposition of penalty is not warranted.

● Accordingly, denial of credit on welding electrodes is upheld and credit on other items is allowed and penalty is set aside.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Member(Judicial)