

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/1120/2006-SM[BR]

Date 11/03/2008

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

To :
M/S MARAL OVERSEAS LTD.
VILL KHALBUJURG, TEHSIL
KASRAVEAD, A.B. ROAD, DIST KHARGONE (MP)

M/S MARAL OVERSEAS LTD.

CCE, INDORE

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 400 /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

CCE, INDORE

MANIK BAGH PLACE INDORE (MP)

2. Adv. / Consult

MR. JAIDEEP WADGE

10, BAIRATHI COLONY NO.1, P.O. PAGNISPAGA, INDORE, M.P. 452007

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.1120/2006-SM

(Arising out of order in appeal No.IND.I/520/05 dated 30.12.05 passed by
the Commissioner of Central Excise (Appeals), Indore)

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 Maral Overseas Ltd

Appellant
(Rep. by none)

Vs

CCE, Indore

Respondent
(Rep. by Shri S.L. Meena, DR)

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

Date of Hearing: 23.1.2008

Final Order No. 400/08-SM(BR) /2008-SM(BR)

Per P.K. Das:

None appeared on behalf of the appellant. The appellants by their letter dated 21.1.2008, have requested to decide the case in their absence on merits on the basis of written submissions.

2. The appellant filed refund claim on duty paid returned goods in the month of June, 2003. The Adjudicating Authority sanctioned the refund claim under Section 11-B of Central Excise Act, 1944. The Revenue filed appeal before the Commissioner (Appeals). By the impugned order, the Commissioner (Appeals) partially allowed the refund claim.

3. After hearing the learned DR and on perusal of record, it is seen that the duty paid goods were returned in the appellants factory for processing, re-conditioning etc., which are governed by Rule 16 of Central Excise Rules, 2002, provides for availing of cenvat credit as input on the returned goods. There is no provision for refund of duty as in earlier Rule 173-L of erstwhile Central Excise Rules, 1944. The adjudicating authority observed that the appellant is entitled for refund of duty on the returned goods which are subjected to processing or used for manufacture of goods in the factory. However, the Commissioner (Appeals) partially allowed the refund claim following the proviso to Rule 173-L of the erstwhile Central Excise Rules, 1944 read with Section 11-B of Central Excise Act, 1944.

4. I find that Rule 16 of Central Excise Rules, 2002 is the provision for availing credit on the duty paid returned goods and therefore, refund is not admissible. So, I do not find any reason to interfere with the order of the Commissioner (Appeals). Accordingly, the appeal is rejected.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Member(Judicial)