

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/2296/2006-SM[BR]

Date 17/03/2008


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

To :
M/S SHAKUMBARI SUGAR & ALLIED IND LTD
TODARPUR, SHARANPUR (UP)

M/S SHAKUMBARI SUGAR & ALLIED IND LTD
THE COMMISSIONER OF CENTRAL EXCISE
MEERUT-I

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No.408 /2008 -SM[BR] dated 15.1.2008
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
EXCISE CHOWK, UNIVERSITY ROAD,, MANGAL
PANDEY NAGAR, MEERUT
250005

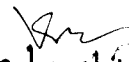
2. Adv. / Consult

MR.RAJESH CHHIBBER
FA/9, NEW KAVI NAGAR, GHAZIABAD

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)

**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.2296 of 2006-SM (BR)

[Arising out of order in appeal No.32-CE/MRT-I/06 dated 31.3.2006 passed by
the Commissioner (Appeals) Central Excise, Meerut]

Date of Hearing/ Decision:15.1.2008

For approval and signature:

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

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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?
-

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)

M/s. Shakumbari Sugar & Allied Inds. Ltd.

Appellants
[Rep. by Mr. Rajesh Chhiber, Advocate]

Vs.

CCE, Meerut-I

Respondent
[Rep. by Mr. S. Gautam, SDR]

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

Final ORDER NO. 408/08-SM(BB)/Dated:15.1.2008

Per P.K. Das:

The appellants filed this appeal against denial of credit on Welding Electrodes, M.S. Plates, M.S. Bars and Plain Plates, Angles, Alkali, Resin, Thinner and Primer. Ld. Advocate submits that the appellants availed 50% of the credit during the same financial year, which was denied by show cause notice dated 12.3.2004 and which was ultimately allowed by the Tribunal by Final Order No.1005/07-SM (BR) dated 1.6.2007. He further submits that in the present case, the balance 50% credit availed during the subsequent financial year 2004-2005 was disallowed and the said decision of the Tribunal is applicable herein. He fairly submits that the credit on Acid Alkali Resin and Thinner and Red Oxide Primer were availed after six months from the date of receipt of the goods and not eligible for credit.

2. Ld. DR on behalf of the Revenue reiterates the findings of the Commissioner (Appeals).

3. After hearing both the sides and on perusal of the records, it is seen that the Tribunal in the appellants' own case by Final Order No.1005/07-SM (BR) dated 1.6.2007 allowed credit on all the items except welding electrodes. Respectfully following the decision of the Tribunal in the appellant's own case vide Final Order dated 1.6.2007, denial of credit on

M.S. Plates, H.R. Sheets, Plain Plats, Angles, M.S. Bars is set aside and denial of credit on Welding is upheld. It is seen that the credit on Acid Alkali Resin, Thinner and Red Oxide Primer was availed after six months of the receipt of the capital goods and, therefore, these items are not eligible for Cenvat credit. As the issue involved is availment of Cenvat credit and the interpretation of various provisions of the law, imposition of penalty is set aside. The order of the Commissioner (Appeals) is modified accordingly.

Order dictated & pronounced in open court on 15.1.2008.

(P.K. Das)
Member (Judicial)

Ckp.

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
(Principal Bench)

West Block No.2, R.K. Puram, New Delhi-110066
SINGLE MEMBER APPEAL BRANCH

Date : 19/08/2008

MISC Order No. 223 / 2008 -SM[BR]

Application E/ ROM / 29 / 2008 -SM[BR]

Appeal E/2296/2006-SM[BR]

1. Appellant

M/S SHAKUMBARI SUGAR & ALLIED IND
LTD
TODARPUR, SHARANPUR (UP)

2. Respondent

THE COMMISSIONER OF CENTRAL
EXCISE MEERUT-I
EXCISE CHOWK, UNIVERSITY ROAD,,
MANGAL PANDEY NAGAR, MEERUT
250005

3. Adv / Consult :

MR. RAJESH CHHIBBER
FA/9, NEW KAVI NAGAR, GHAZIABAD

4. C.D.R

5. Bar Association, CESTAT, New Delhi.

6. M/s. Deeparchi Publications, M-93, Marg. 43, Saket, New Delhi.

7. M/s Centax Publications (P) Ltd., 1512-E, Bhisim Pitamah Marg, Opp.
Sachdeva P.T. College of Defence Colony, New Delhi - 110003

8. Excise & Customs cases, B-37, Sector -1, Noida - 201301 (U P)

9. R.Venkatraman, Constt. 44B, S. Suncity, Ghaziabad - 201010, U.P.

10. Director Publications, Customs, Excise. I.P. Estate, New Delhi

11. Taxmann Allied Service Pvt. Ltd., 21/35, West Punjabi Bagh, New Delhi
- 110026.

12. Co. Law Institution

13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 70

14. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above
Star India Bazar, Satellite Road, Ahmedabad - 15

15. Office Copy

16. Guard File


Assistant Registrar
(SM Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K Puram, New Delhi-110066

COURT-IV

Date of hearing: 25.7.2008

Excise ROM Application No. 29/2008-SM(BR) in
Appeal No.E/2296/2006-SM(BR)

M/s Shakumbari Sugar & Allied Ind. Ltd.

Appellant

vs.

CCE Meerut-I

Respondent

Appearance:

Shri Anil Sethi, Assistant Manager of Co. for the Appellant/Applicant
Shri A.K. Rastogi, DR for the Respondent

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

Misc Order No. 223/2008-SM(BR)

Per: P.K. Das

The applicant filed this application for rectification of mistake
in Final Order No. 408/2008-SM(BR) dated 15.01.08.


2. After hearing both the sides and on perusal of the records, the
ld. Representative of the Applicant submits that in the cause-title of
Final Order dated 15.01.08 it has been mentioned "Order-in-Appeal
No. 32-CE/MRT-I/06 dated 31.3.2006," which should be "Order-in-
Appeal No. 48/CE/MRT-I/2006 dated 31.3.06".



3. In view of the above submission the cause title of Final Order No. 408/2008-SM(BR) dated 15.01.08, the words "Order-in-Appeal No. 32-CE/MRT-I/06 dated 31.3.2006" are to be deleted and to be read as "Order-in-Appeal No. 48/CE/MRT-I/2006 dated 31.03.2006".

4. The application is disposed of in the above terms.

(Dictated and pronounced in the open court.)


(P.K. Das)
Member (Judicial)

K. Gupta