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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

Date 31/03/2008

Appeal No. E/3844/2006-SM [BR]

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

To :
M/S SARJOO SAHKARI CHINI MILLS LTD
BELRAYAN, DISTT- LAKHIMPUR KHERI (UP) — Appellant

Vs

M/S SARJOO SAHKARI CHINI MILLS LTD — Respondent

C.C.E.LUCKNOW

I am directed to transmit herewith a certified copy of **Final order No. 517 /2008 –SM[BR]** dated **24.3.2008** 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.LUCKNOW
   7-A, ASHOK MARG, LUCKNOW.
2. Adv. / Consult
   MR.VINAY GARG
   C-253, 1ST FLOOR DEFENCE COLONY, 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 Publictions (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 & SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

Excise Appeal No. 3844 of 2006-SM(BR)

(Arising out of Order-in-Appeal No. 101-CE/LKO/2006 dated 30.7/30.8.06 passed by the Commissioner (Appeals), Customs & Central Excise, Lucknow)

For approval and signature

HON'BLE MR. S.S. KANG, VICE PRESIDENT

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 would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?**	v
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 Sarjoo Sahkari Chini Mills Ltd. — Appellant

Vs.

CCE, Lucknow — Respondent

Appearance:
Shri Bipin Garg, Advocate - For appellant
Ms. Archana P. Tiwari, Jt. CDR - For respondent

CORAM:
HON'BLE MR. S.S. KANG, VICE PRESIDENT

Date of Hearing: 24.3.2008

Final Order No. 517/08-SM(BR) dated 24.3.08

Per S.S. Kang:

Heard both sides.

2. The appellant filed this appeal against the impugned order whereby the benefit of Modvat credit in respect of

welding electrodes, C.S. trash plates and G.C. sheets was disallowed.

3. I find that issue in respect of welding electrodes is already settled by the following decisions of Larger Bench in favour of the Revenue.

1. **M/s Triveni Engineering & Industries Ltd. Vs. CCE** reported in 2005 (186) ELT 158.
2. **M/s Jaypee Rewa Plant Vs. CCE** reported in 2003 (159) ELT 553.

4. In view of the above decisions, I find no infirmity in the impugned order whereby credit in respect of welding electrodes is disallowed.

5. Credit in respect of C.S. trash plates and G.C. sheets the same was disallowed on the ground that these were not specified goods under definition of capital goods. The Commissioner (Appeals) held that the appellant failed to prove how these items are used as accessory or component of the specified capital goods.

6. The contention of the appellant is that the trash plates and G.C. sheets are used to replace old and used parts of

plant and machinery. The trash plates are used to replace the old plates. The contention is that the definition of capital goods covers parts and accessories, therefore, appellants are entitled for credit.

7. I find that the Commissioner (Appeals) in the impugned order held that the appellant had not produced any evidence to show how the item in question are used as parts or accessories of the specified goods. In these circumstances, I find that matter in respect of credit on trash plates and G.C. sheets requires reconsideration by the adjudicating authority. The impugned order denying the credit on these items is set aside and matter is remanded to the adjudicating authority to decide afresh after affording an opportunity of hearing to the appellant. The appeal is disposed of as indicated above.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

RM