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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

Appeal No. E/3086/2006-SM[BR]   Date 31/03/2008

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

To :
M/S SUBHASH INDUSTRIES
C-30,FOCAL POINT,PATIALA.

M/S SUBHASH INDUSTRIES   Appellant
Vs
C.C.E.CHANDIGARH.   Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 518 /2008 –SM[BR] dated 20.2.2008 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.CHANDIGARH.
   PLOT NO 19,SECTOR 17-C,CHANDIGARH.
2. Adv. / Consult SHRI HEMANT BAJAJ ADV.
   A-5, BASEMENT LAJPAT NAGAR –III NEW DELHI-24
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, WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI

COURT – II

EXCISE APPEAL NO. 3086 OF 2006-SM

[Arising out of Order-in-Original No. IV(16)75/Tech/2003/2105 dated 21.06.2006 passed by the Commissioner, Central Excise, Chandigarh]

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?	no
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	no
3.	Whether their Lordships wish to see the fair copy of the order?	yes
4.	Whether order is to be circulated to the Departmental authorities?	no

M/s. Subhash Industries — Appellants

Vs.

CCE, Chandigarh — Respondent

Appearance:

Shri Hemant Bajaj, Advocate for the appellants,
Shri B.S. Suhag, JDR for the Revenue,

Coram:

Hon'ble Mr. S.S. Kang, Vice President

Date of Hearing: 19th February, 2008

FINAL ORDER NO. 518/08-SM(BR) dated 20.2.08

Per S.S. Kang:

Heard both sides.

2. The appellants filed this appeal against the impugned order whereby remission application filed by the appellants was rejected on the ground that the appellants had not produced evidence that claim before the insurance company does not include the portion of the excise duty payable on the goods.

3. Contention of the appellants is that they filed insurance claim approximately for Rs. 10 lakhs and the insurance company sanctioned the claim approximately for Rs. 4 lakhs and the matter is pending before the State Consumer Forum. Contention of the appellants is that they have not claimed excise duty payable on goods destroyed in fire from the insurance company and that they are willing to give undertaking that they will not claim portion of the excise duty from the insurance company. Contention is also that the Revenue enquired from the insurance company regarding claim of the appellants to ensure whether excise duty payable on the goods destroyed in fire is part of the claim and the insurance company has not given this information on the ground that the matter is subjudice. The Revenue's contention is that since the appellants filed application

for remission of duty, they have to show that the excise duty payable on the goods destroyed in fire is not claimed by them from the insurance company.

4. I find that as the insurance company has not given any information regarding query raised by the Revenue on the ground that the matter is subjudice. Since it requires verification, whether the appellants have claimed from the insurance company the portion of excise duty payable on goods destroyed in fire and matter is pending before the State Consumer Form, hence, the impugned order is set aside and the matter is remanded to the adjudicating authority to decide afresh after affording reasonable opportunity of personal hearing to the appellants. Appeal is disposed off by way of remand.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

Dated 20th February, 2008

RK