

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/1997/2006-SM[BR]

Date 04/04/2008

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
Vs
Respondent

THE COMMISSIONER OF CENTRAL EXCISE
MEERUT-I

I am directed to transmit herewith a certified copy of **Final order No. 548 /2008 -SM[BR]** dated 29.1.2008

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, Bhisim 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.1997 of 2006-SM (BR)

[Arising out of order in appeal No.01/CE/MRT-I/2006 dated 25.1.2006 passed by
the Commissioner of Central Excise (Appeals), Meerut-I]

Date of Hearing/ Decision:29.1.2008

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? | : | |
-

M/s. Doiwala Sugar Company Ltd.

...Appellants
[Rep. by Ms.Alok Arora, Advocate.]

Vs.

CCE, Meerut-I

Respondent
[Rep. by Mr. Rajmal, DR]

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

Final Order No..548/06.SM/Dated:29.1.2008

Per P.K. Das:

● Heard both sides and perused the records.

2. The appellant filed this appeal against denial of credit on Welding Electrodes, M.S. Plates, Channels, Angles, H.R. Sheets, Asbestos Packing and Steam Jointing Sheet etc.

3. The appellants are engaged in the manufacture of sugar and molasses. The adjudicating authority allowed the credit on these items and dropped the proceedings. Revenue filed the appeal before the Commissioner (Appeals) whereby the Commissioner (Appeals) set aside the adjudication order.

4. After hearing both the sides and on perusal of the records, I find that the Larger Bench of the Tribunal in the case of Triveni Engg. and Industries Ltd. Vs. CCE, Meerut – 2005 (186) E.L.T. 158 (Tribunal-Larger Bench) held that Welding Electrodes is not admissible for Cenvat Credit. Further, the Tribunal in the case of J.K. Cement Vs. CCE, Jaipur reported in 2007 (211) ELT 235, after considering the decisions of the Rajasthan High Court disallowed the credit on Welding Electrodes. Therefore, denial of credit on Welding Electrodes is upheld.

5. Regarding denial of credit on M.S. Plates, Channels, Angles, H.R. Sheets, etc. the adjudicating authority observed that M.S. Plates, Channels, Angles, H.R. Sheets were used for repairing capital goods or parts of capital goods. The Hon'ble Rajasthan High Court in the case of Union of India Vs Hindustan Zinc Ltd. reported in 2007 (214) ELT 510 (Rajasthan) held that M.S./S.S. Plates used in workshop meant for repair and maintenance of machinery, which are used for manufacture of final products are eligible for Cenvat credit. The Commissioner (Appeals) did not dispute the use of these items. It is observed that these items are not covered under the definition of capital goods. It is

seen that these items were used as components or parts of machinery. Therefore, the denial of credit on these items are set aside.

6. The adjudicating authority observed that the Asbestos Packing, Jointing/Packing Sheet, etc. were used in the factory were jointing of juice pipes, vapour pipes and steam pipes. The Commissioner (Appeals) observed that these items are not within the definition of capital goods. The Tribunal in the case of KCP Sugar & Industries Ltd. Vs. CCE, Guntur held that Asbestos packing/jointings are used for preventing the leakage of pipes used in cane sugar are eligible for Cenvat Credit. Therefore, denial of credit on these items is not justified.

7. In view of the above, the denial of credit on Welding Electrodes is upheld and denial of credit on other items are set aside. The appeal is disposed of in the above terms.

Order dictated & pronounced in open court on 29.1.2008.

(P.K. Das)
Member (Judicial)

Ckp.