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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/35 /2007-36 /2007 – SM[BR]

Date 16/10/2008

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

To :
(1-2) THE GENERAL MANAGER
THE SEKSARIA BISWAN SUGAR FACTORY LTD.
BISWAN, DISTT. SITAPUR. (U.P.)
THE SEKSARIA BISWAN SUGAR FACTORY LTD.

C.C.E. LUCKNOW

Appellant

Vs

Respondent

I am directed to transmit herewith a certified copy of **Final order No. 1371 – 1372 / 2008 - SM[BR]** dated 25.9.2008
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.KAPIL VAISH

B-51, BUTLER PLAZA, 95, CIVIL LINES, BAREILLY.

3 S.D.R

4 J.C.D.R.

5 Bar association, CESTAT, New Delhi

6 M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017

7 M/s Centax Publications (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New - 3

8 Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)

9 Raghuraman's 44-B, Regal Flat, Shipra Suncity, Indirapuram - 201010, Ghaziabad, DT, U.P.

10 Nidheshak publications, I.P.Estate, new Delhi

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

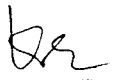
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thvagarava Road, T. Nagar, Chennai

13 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kuni, New Delhi - 110070

14 Easy Service Tax Online Dot Com Pvt.Ltd.407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-1

15 Office Copy

16 Guard file


Assistant Registrar
(SM Appeal Branch)

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II**

E/Appeal Nos.35-36/2007-SM (BR)

(Arising out of order in appeal No.98-99/CE/2006 dated 28.7.2006 passed by the Commissioner of Central Excise (Appeals), Lucknow)

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 Seksaria Biswan Sugar Factory Ltd Appellant
(Rep. by Shri Kapil Vaish, Advocate)

 V_s

CCE, Lucknow

Respondent
(Rep. by Shri R.K. Verma, DR)

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

Date of Hearing: 25 .9.08

Final Order No. 1371-1372 /2008-SM(BR)

Per P.K. Das:

Both the appeals are arising out of a common order and therefore, these are being taken up together for disposal.

2. The Appellants filed these appeals against denial of credit on Welding Electrodes. After hearing both the sides and on perusal of the cases, it is seen that the Hon'ble Rajasthan High Court in the case of Hindustan Zinc Ltd Vs Union of India reported in 2008 (228) ELT 517 (Raj.) held that Welding Electrodes used for repair and maintenance of plant and machinery are eligible for modvat credit. In view of the decision of the Hon'ble Rajasthan High Court in the case of Hindustan Zinc Ltd Vs Union of India (supra), impugned order of denial of credit on Welding Electrodes is set aside. Both the appeals are allowed with consequential relief.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Member(Judicial)