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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/3897/2006 – SM[BR] Date 10/11/2008

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

To :
M/S B.S.AGRICULTURE INDUSTRIES
12/15- AA NAWAL GANJ, AGRA.

M/S B.S.AGRICULTURE INDUSTRIES Appellant
Vs
C.C.E.KANPUR Respondent

I am directed to transmit herewith a certified copy of **Final order No. 1412 / 2008 SM[BR]** dated 5.9.2008 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Copy to :
1. Respondent
C.C.E.KANPUR
117/7, SARVODAYA NAGAR, KANPUR.
2. Adv. / Consult
MR.BIPIN GARG
B-1/1289,A-VASANT KUNJ, 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. 46. Saket. New Delhi 110017
7 M/s Centax Publictions (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). Thyagaraya Road. T. Nagar.Chennai
13 Taxindiaonline.com Pvt.Ltd. B-XI/8183.Vasant Kunj. 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
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Assistant Registrar
(SM Appeal Branch)

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

COURT-IV

Date of hearing: 05.9.2008

E/Appeal No. 3897/2006-SM(BR)

(Arising out of Order-in-Appeal No. 414-CE/APPL/KNP/06 dated 30.08.2006 passed by the Commissioner (Appeals) Customs & Central Excise, Kanpur)

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 B.S. Agriculture Industries — Appellant/Applicant
(Shri A. Gupta, Advocate for the Appellant)

Vs.

CCE, Kanpur — Respondent
(Rep. by Shri R.K.Verma, DR for the Respondent)

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

Final Order No. 1412/08-SM(BR)

Per: P.K. Das

The Appellant availed Modvat credit during the period of December, 1994 and February, 1995 on the strength of the invoices issued by the dealers of M/s SAIL. It has been alleged that the duty ~~paid~~ paying documents did not contain the requisite information. The Adjudicating Authority confirmed the demand of duty, which has been upheld by the Commissioner (Appeals). The Commissioner (Appeals) observed that the invoices issued by the stockyard of the SAIL, wherein supplier information are not available. It is contended that the information such as amount of duty, rate of duty, invoices number etc. are not available in the stockyard invoices. The Tribunal in the case of Jay Industrial Vs. Commissioner of Central Excise, Chandigarh, reported in 2002 (149) ELT 663 (Tri.-Del.) held that credit availed on the strength of the invoices issued by stockyard of SAIL, cannot be denied on the ground that the invoice on which the Modvat credit availed did not contain the particulars of originating invoices under which duty paid by the manufacturer. It has been held that the goods are being issued to different dealers under the invoices of SAIL depots, certificate of SAIL depots certifying the particulars of payment of duty at the steel plant should be accepted for the purpose of Notification No. 15/94-C.E. (N.T.) dated 30.3.1994. In the present case, there is no dispute that the Appellant availed credit on the basis of the invoices issued by stockyard of SAIL, which is a specified documents. So, there is not reason to deny the credit to the Appellant. Accordingly the impugned order is set-aside, the appeal is allowed with consequential reliefs.

(Dictated and pronounced in the open court).

(P.K. Das)
Member (Judicial)

K. Gupta