

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/1365/2006 – SM[BR]

Date 11/11/2008

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

To :
M/S BANSWAR SYNTEX LTD.
INDL. AREA, DOHAD ROAD, BANSWARA
BANSWAR SYNTEX LTD.

Appellant
Vs
Respondent

C.C.E. JAIPUR II

I am directed to transmit herewith a certified copy of Final order No. 1432 / 2008 – SM[BR] dated 5.9.2008
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. JAIPUR II

N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.

2. Adv. / Consult

SHRI, BIPIN GARG ADV.
B-1 / 1289 –A, VASANT KUNJ NEW DELHI -70

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

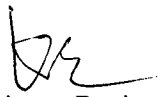
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thvagarava Road, T. Nagar, Chennai

13 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant 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

16 Guard file


Assistant Registrar
(SM Appeal Branch)

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

COURT-IV

Date of hearing: 05.9.2008

E/Appeal No. 1365/2006-SM(BR)

(Arising out of Order-in-Appeal No. 970(HKS)/CE/JPR-II/2005 dated 29.12.2005 passed by the Commissioner (Appeals-II) Central Excise, Jaipur)

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 Banswara Syntex Ltd. Banswara

Appellant
(Shri Atul Gupta, Advocate)

Vs.

CCE, Jaipur-II

Respondent
(Shri K.K. Goyal, Jt. CDR)

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

Final Order No. 1432/08-SM(BR)

Per: P.K. Das

The Appellant filed application for refund of Rs. 3,25,260.00 under Rule 5 of Cenvat Credit Rules 2004 for the amount of duty paid on the inputs used in the manufacturer exported goods. The Deputy Commissioner of Central Excise rejected the refund claim. Commissioner (Appeals) remanded the matter to the Adjudicating Authority with certain directions.

2. After hearing both the sides and on perusal of the records, it is seen that the Commissioner (Appeals) observed that the Adjudicating Authority mentioned that the claim will be admissible when the evidence would be placed before him that M/s IPCL has not imported any raw material without payment of CVD. It is also observed that the Appellant have not exhausted all the remedies available to them. The Id. Counsel submits that the Commissioner (Appeals) remanded the matter for verification of the evidences and overruled the eligibility on credit under Rule 5 of the said Rules as held by the same Commissioner (Appeals) vide Order-in-Appeal No. 542-543 (HKS) CE/JPR-II/2005. I find that the Commissioner (Appeals) remanded the matter to the

Adjudicating Authority for verification of the evidences. As such, it is directed that the Adjudicating Authority would also consider the above submission of the Id. Counsel of eligibility of credit under Rule 5 of the said Rules. The appeal is disposed of.

(Dictated and pronounced in the open Court).

(P.K. Das)
Member (Judicial)

K. Gupta