

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
SINGLE MEMBER APPEAL BRANCH

Appeal No. ST/59 /2008 – SM[BR]

Date 17/11/2008

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

To :
M/S AGRIMAS CHEMICALS LTD.
A-73, INDUSTRIAL AREA, SIKANDRABAD.
M/S AGRIMAS CHEMICALS LTD.

Appellant
Vs
Respondent

C.C.E. NOIDA

I am directed to transmit herewith a certified copy of Final order No. 1454 / 2008- SM[BR] dated 6.11.2008
passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

C.C.E. NOIDA

B-123, SECTOR 5, NOIDA.

2. Adv. / Consult

MR.S.JAINA & ASSOCIATES

84,DARYAGANJ,N.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 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 Puniabi Bagh, New Delhi - 110026

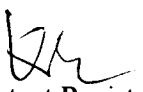
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagarava Road, T. Nagar, Chennai

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)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH
NEW DELHI, COURT NO.I**

Service Tax Appeal No. 59 of 2008-SM

[Arising out of Order-in-Appeal No. 121-CE/NOIDA/2007 dated 31.10.2007
passed by the Commissioner (Appeals), Customs & Central Excise, Noida]

Date of Hearing/Decision : 06.11.2008

For approval and signature:

Hon'ble Ms. Jyoti Balasundaram, Vice President

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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. | : | Yes |
| 2. Whether it should 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? | : | Seen |
| 4. Whether Order is to be circulated to the Departmental authorities? | : | Yes |
-

M/s Agrimas Chemicals Limited

Appellant

Vs.

CCE, Noida

Respondent

Appearance:

Mr. Seema Sethi, Advocate for the Appellant

Mr. R.K. Saini, Authorized Representative for the Respondent

CORAM: Ms. Jyoti Balasundaram, Vice President

Final Order No. 1454/08-SM(BR)

Per Jyoti Balasundaram:

I have heard both sides on the appeals against the order of the Commissioner (Appeals) upholding the demand of service tax of Rs. 76,825/- under Section 73 together with interest under the provision of Section 75 of Chapter-V of the Finance Act 1944 on the ground that adjustment of excess tax

paid was not permissible and that only option available to the appellant was by way of filing the claim for refund of the amount paid. I find that the issue is settled in favour of the assessee by the decision of the Tribunal in **Narnolia Securities Pvt. Limited vs. Commissioner of Service Tax, Ranchi reported in 2008 (10) S.T.R. 619 (Tri. Kolkata)** holding that rule 6(3) of Service Tax Rules, 1994 is applicable in such a case and allowing adjustment. Following the ratio thereof I set aside the impugned order of the Commissioner (Appeals) and allow the appeal.

[Dictated and pronounced in the open Court]

[Jyoti Balasundaram]
Vice President

[Pant]