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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/3412/2006& E/1553 /2007 -SM[BR] Date 30/05/2008

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

To :
(1-2)M/S AHLCON PARENTERALS (INDIA) LTD
SP-918, RIICO INDUSTRIAL AREA, BHIWADI(RAJ)

M/S AHLCON PARENTERALS (INDIA) LTD Appellant
Vs
C.C.E.JAIPUR Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 833- 834 /2008 -SM[BR] dated 24.3.2008

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
   NCRB, STATUE CIRCLE, C-SCHEME, JAIPUR.
2. Adv. / Consult
   MR.J M SHARMA
   G-31, BASANT ENCLAVE, 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 Delhi -
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 60017
13. Taxindiaonline.com Pvt.Ltd, 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 Appeals Nos.3412 of 2006 & E/1553 of 2007-SM (BR)

[Arising out of Order-in-Appeal No.198(GRM)/CE/JPR-1/2006 dated 31.7.2006 passed by the Commissioner of Customs & Central Excise (Appeals), Jaipur]

Date of Hearing/ Decision: 24.3.2008

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? :

No

M/s. Ahlcon Parenterals (India) Ltd. Appellants
[Rep. by Shri J.M. Sharma, Advocate with Shri Roop Singh, Advocate]

Vs.

CCE, Jaipur Respondent
[Rep. by Mr.A.K. Rastogi, Authorized Representative (DR)]

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

Final **O R D E R NO.833-834/08-SM(BR)/Dated: 24.3.2008**

Per P.K. Das:

Common issue is involved in both the appeals and, therefore, they are taken together for disposal.

2. Heard both sides and perused the records.

3. The appellants were engaged in the manufacture of dutiable and exempted medicines and using plastic granules for manufacture of the bottles/containers for packing of the medicines. The Appellant availed Cenvat Credit on plastic granules. The adjudicating authority observed that the appellants had diverted some quantity of plastic granules with effect from April, 2004 onwards on which Cenvat Credit had been availed for the manufacture of packing materials used for exempted medicines. It has also been observed that the Appellants did not submit calculation pertaining to the use of plastic granules contains in the scrap generated during the said period.

4. Ld. DR submits that they have not placed the statement before the Commissioner (Appeals).

5. Ld. Counsel on behalf of the Appellants drew the attention of the Bench to the statement of granules consumption for dutiable and exempted goods. He submits that the appellants placed the entire records before the lower authorities but he had not considered the same. He also relied upon the decision of the Tribunal on this issue.

6. I find that the statements and the documents are required to be examined by the lower authorities. Accordingly, the impugned orders are set aside and the matter is remanded back to the adjudicating authority to examine the documents/statements placed by the appellants and the case laws and to pass order after granting proper opportunity of hearing. Both the appeals are allowed by way of remand.

Order dictated & pronounced in open court on 24.3.2008.

(P.K. Das)
Member (Judicial)

Ckp.