(18)

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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/2661, 2662 , 2663 &2665 /2006-SM[BR] Date 20/06/2008

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

To :
C.C.E. MEERUT II

OPP. SAHEED PARK (NEAR ASHOK KI LAT) DELHI
ROAD, MEERUT (UP)
C.C.E. MEERUT II Appellant

Vs

M/S BISALPUR SAHKARI CHINI MILL LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 976 -979 /2008 –SM[BR] dated 2.6.2008

passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
M/S BISALPUR SAHKARI CHINI MILL LTD.
BILASPUR, DISTT. PILIBHIT
2. M/S KISAN SAHKARI CHINI MILLS LTD. SHEIKHUPUR, DISTT, BUDAUM[U.P]
3. M/S KISAN SAHKARI CHINI MILLS, SEMIKHERA DISTT; BAREILLY[U.P]
4. M/S RUDRA BILAS KISAN SAHKARI CHINI MILLS LTD BILASPUR DISTT; RAMPUR [U.P]
2. Adv. / Consult SHRI KAPIL VAISH C.A.
B -51 BUTLER PLAZA CIVIL LINES, BAREILLY [U.P]

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, NEW DELHI
PRINCIPAL BENCH NEW DELHI

Excise Appeals Nos.2661, 2662, 2663 & 2665 of 2006 –SM (BR)

[Arising out of Order-in-Appeal No.109-CE/MRT-II/2006 dated 12.5.2006 passed by the Commissioner of Central Excise (Appeals), Meerut-II]

Date of Hearing/ Decision:2.6.2008

For approval and signature:

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

1. Whether Press Reporters may be allowed to see 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.

CCE, Meerut-II ...Appellants
[Rep. by Shri B. S. Suhag, DR]

Vs.

1.M/s. Bisalpur Kisan Sahkari Chini Mills Ltd.
2.M/s.Kisan Sahkari Chini Mills Ltd.
3.M/s. Rudra Bilas Kisan Sahkari Chini Mills Ltd. ....Respondent
[Rep. by Shri N.Vyas, Advocate and Shri K. Vaish, Advocates]

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

Order No...................../Dated:02.06.2008

Final Order No: 976-979/2008-SM(BR)

Per P.K. Das:

Common issue is involved in these appeals and, therefore, all the appeals are taken up together for disposal.

2. Ld. DR on behalf of the Revenue submits that in these cases, the Adjudicating Authority imposed penalty as per specified monetary limits i.e. Rs.10,000/- as required under Rule 13 (1) of the erstwhile Central Credit Rules, 2002. He submits that the minimum penalty of Rs.10,000/- is required to be imposed in all these cases.

3. After hearing both the sides and on perusal of the records, I find that the Larger Bench of the Tribunal in the case of Commissioner of Central Excise Vs. Rama Wood Craft (P) Ltd.– 2008 (225) ELT 348 (T-LB) held that there is no minimum penalty prescribed under the Rule 173Q of the erstwhile Central Excise Rules, 1944 – Rule 25 of the Central Excise Rules, 2002. I find that the Rule 13 (1) of Cenvat Credit Rules, 2002 provides that the person shall liable to a penalty not exceeding the duty on the excisable goods in respect of which any contravention has been committed or Rs.10,000/- whichever is greater. It is seen that Rule 25 of Central Excise Rules, 2002 also provides the similar wordings to the extent that the person shall be liable to a penalty not exceeding the duty on the excisable goods in respect of which any contravention of the nature referred to any clause (a) or clause (b) or

clause (c) or clause (d) has been committed, or rupees ten thousand (now rupees two thousand), whichever is greater. So, the decision of the Larger Bench of the Tribunal in the case of Rama Wood Craft (P) Ltd. (supra) is applicable in the case of imposition of penalty under Rule 13 of the Cenvat Credit Rules, 2002. So, I do not find any merit in the appeals filed by the Revenue. All the appeals are rejected.

Order dictated & pronounced in open court on 02.06.2008.

(P.K. Das)
Member (Judicial)

Ckp.