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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/1489/2006-SM[BR] Date 30/06/2008

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

To :
M/S HINDUSTAN PROCESSORS LTD.
GUWARDI,BHILWARA(RAJ)

M/S HINDUSTAN PROCESSORS LTD. Appellant
Vs
C.C.E. JAIPUR II Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 1032 /2008 –SM[BR] dated 25.6.2008 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
 C.C.E. JAIPUR II
 N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.
2. Adv. / Consult
 MR.K.K ANAND
 A-5,BASEMENT,LAJPAT NAGAR-III NEW DELHI-24
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)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No. 1489/06-SM

(Arising out of order in appeal No.126/HKS/CE/JPR.II/06 dated 8.2.06 passed by the Commissioner of Central Excise (Appeals), Jaipur)

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 Hindustan Processors Ltd — Appellant
(Rep. by Shri Hemant Bajaj, Advocate)

Vs

CCE, Jaipur — Respondent
(Rep. by Shri S.L. Meena, DR)

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

Date of Hearing: 25.6.08

Final Order No. 1032 /2008-SM(BR)

Per P.K. Das:

Heard both sides and perused the record.

2. The Appellant filed this appeal against rejection of refund claim on the ground of unjust enrichment. On perusal of the order of the

Commissioner (Appeals), I find that the appellant failed to produce the record showing duty incidence was not passed on to other persons. The learned Advocate fairly submits that the question of unjust enrichment is not applicable in this case as it is not related to the quantum of fabrics processed but on the length of Hot Air Stenters. He further submits that an opportunity may be given to the appellants to produce the record and evidences to satisfy the ground of unjust enrichment.

3. After considering the facts and circumstances of the case, I find that the appellants shoud be given an opportunity to place the evidences in support of unjust enrichment. In view of that, the impugned order is set aside and the matter is remanded back to the Adjudicating Authority to examine the documents to satisfy that the duty incidence has not been passed on to other persons. The appeal is allowed by way of remand.

(Order dictated and pronounced in the open Court).

(P.K. Das)
Member(Judicial)

MPS*