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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/2665/2005-SM[BR] Date 08/07/2008

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

To :
M/S TIKAULA SUGAR MILLS LTD
VILLAGE TIKAULA, TEHSIL-JANSATH, DISTT.
MUZAFFARNAGAR (U.P.)
M/S TIKAULA SUGAR MILLS LTD Appellant
Vs
C.C.E MEERUT-I Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1042 /2008 -SM[ BR] dated 30.5.2008

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 MEERUT-I
   MANGAL PANDEY NAGAR, MEERUT (U.P.)
2. Adv. / Consult
   MR.AALOK ARORA,ADV
   82-MISSION COMPOUND,SAHARANPUR (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 & SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

**Excise Appeal No. 2665 of 2005-SM**

(Arising out of Order-in-Appeal No. 09/Comm./M-I/2005 dated 24.5.2005 passed by the Commissioner, Central Excise, Meerut)

For approval and signature

HON'BLE MR. S.S. KANG, VICE PRESIDENT

| | | |
|---|---|---|
| **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 would 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 Tikaula Sugar Mills Ltd. — Appellant

Vs.

CCE, Meerut-I — Respondent

Appearance:
Shri Alok Arora, Advocate - For appellant
Shri S.L. Meena, DR - For respondent

CORAM:
HON'BLE MR. S.S. KANG, VICE PRESIDENT

Date of Hearing: 30.5.2008

FINAL- Order No. 1042/2008-SM(BR) dated............

***Per S.S. Kang:***

The appellant filed this appeal against the adjudication order passed by Commissioner of Central Excise whereby request for remission of duty in respect of shortage found in molasses was rejected.

2. The contention of the appellant is that they are engaged in the manufacture of sugar and molasses and molasses are stored in steel tank when the appellant cleared the molasses and it was found that there was shortage of 93.824 MTs due to storage loss. The appellant applied for remission of duty, the same was rejected in the impugned order.

3. The contention of the appellant is that request for remission is rejected on the ground that proper procedure has not been followed by the appellant. The contention is that on 9.10.2002 when the appellant informed the Revenue to conduct physical verification of the molasses thereafter on 10.10.2002, the appellant informed the Revenue that molasses from the steel tank has been cleared and there was shortage of 93.824 MTs. Subsequently, appellant on 16.10.2002 filed a formal application for remission of duty. The contention is that in these circumstances it cannot be held that appellant had not followed the procedure. The appellant also submitted that the Assistant

Commissioner of Central Excise issued show-cause notice for demand of duty in respect of molasses in question is a consequential demand. The adjudicating authority confirmed the demand and Commissioner (Appeals) dismissed the appeal filed by the appellant. Thereafter, appellant filed revision application before the Government of India and revisonary authority vide order dated 22.1.2007 set aside the demand on the ground that as per board's circular variation of 2% is allowed in respect of the molasses. In the present case, the variation is only 0.37% and there is no evidence that the quantity in question has been cleared without payment of duty.

4. The Revenue submitted that as the procedure for seeking remission has not been followed, therefore, the request was rightly rejected. The contention is also that the appellant failed to prove the exact cause for such loss of the molasses.

5. In this case, I find that consequential demand already set aside by the revisionary authority on the ground that there is a variation of stock to the extent of only 0.37% whereas as per board's circular No. 261/15/1982-Cx.8 dated 18.7.83 a variation

of 2% is allowed in respect of molasses. In view of the above circular and the order passed by the authority in revision application, the impugned order is set aside and appeal is allowed.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

RM