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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/2969/2006-SM[BR] Date 08/07/2008

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

To :
M/S THE SUPREME INDUSTRIES LTD
SOLITARE CORPORATE PARK,BUILDING NO
1101,GROUND FLOOR,167,GURU HARGOVINDJI
MARG,CHAKALA,ANDHERI(EAST) MUMBAI
400093

M/S THE SUPREME INDUSTRIES LTD Appellant
Vs
C.C.E. INDORE Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1047 /2008 –SM[BR] dated 30.6.2008 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. INDORE
   MANIK BAGH PALACE, POST BOX NO. 10, INDORE 452001 (M.P.)
2. Adv. / Consult
   MR.M.H PATIL
   POST OFFICE BUILDING, 2ND FLOOR, JB NAGAR, ANDHERI EAST MUMBAI
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,
West Block No.2, R.K Puram, New Delhi-110066

COURT-IV

Date of hearing: 30.6.2008

Central Excise Appeal No. 2969/2006-SM(BR)

[Arising out of the order-in-Original No. 19/Commr/CEX/IND/2006 dated 22.6.2006 passed by the Commissioner of central Excise, Indore]

For Approval and Signature:

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

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 27 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	M.
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

Appellants — Respondent

M/s Supreme Industires Ltd. vs. C.C.E Indore

Appearance:

None for the Appellant
Shri S.L. Meena Authorized Departmental Representative (DR) for the Revenue

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

FINAL Order No. 1047/2008-SM

Per: P.K. Das:

After hearing the ld. DR and on perusal of records. I find that the issue involved in this appeal is denial of Cenvat Credit on packing material contained in the finished goods destroyed in fire. The Commissioner (Appeal) passed the order following the decision of the Tribunal in the case of Mafatlal Industries Ltd Vs. CCE Ahmedabad 2003 (154) ELT 543 (Tri-Mum). It is seen that the Larger Bench of the Tribunal in the case of Grasim Industries Ltd. Vs. Commissioner of Central Excise, Indore 2007 (208) ELT 336 (Tri-LB) overruled the decision of the Tribunal in the case of Mafatlal Industries Ltd. (Supra). It has been held that the goods were destroyed due to natural cause or by unavoidable accident during handling or storage, cannot be equated with exemption to goods and the inputs can be considered to have been put to intended use for manufacture of the final product.

2. In view of the decision of the Larger Bench of the Tribunal, I find that the impugned order is not sustainable and it is set aside. The appeal is allowed with consequential reliefs.

(Order dictated & pronounced in open court.)

(P.K. Das)
Member (Judicial)

K. Gupta