

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/1347/2006-SM[BR]

Date 28/07/2008

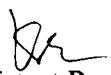
Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S MAWANA SUGAR WORKS
MAWANA DISTT MEERUT
M/S MAWANA SUGAR WORKS

C.C.E. MEERUT I

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 1094 /2008 –SM[BR] dated 24.6.2008
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. MEERUT I

EXCISE CHOWK, UNIVERSITY ROAD, MANGAL PANDEY NAGAR, MEERUT - 250005.

2. Adv. / Consult

MR.BIPIN GARG

B-1/1289,A-VASANT KUNJ, 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 Publications (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.1347/06-SM

(Arising out of order in original No.64/Commr/05 dated 30.12.05 passed by the Commissioner of Central Excise, Meerut-I)

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?

M

M/s Mawana Sugar Works

Appellant
(Rep. by Shri Bipin Garg, Advocate)

Vs

CCE, Meerut-I

Respondent
(Rep. by Shri B.S. Suhag, DR)

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

Date of Hearing: 24.6.08

Final Order No. 1094 /2008-SM(BR)

Per P.K. Das:

The Appellants filed this appeal against rejection of claim of remission of duty of Rs.29,060/- on 3625.80 Qtls of molasses for the period 1994-95.

2. After hearing both the sides and on perusal of the record, it is seen from the order of the Commissioner that the appellants claimed storage loss of molasses of 0.79% during the season 1994-95. The Commissioner rejected the claim on the ground that the losses were detected on 28.12.95 and informed to the Superintendent on 5.1.1996 and application was filed on 23.1.1996. It has been observed that the appellants failed to follow the procedure in Trade Notice No. 206/1984 dated 1.12.1984 as the assessee is required to inform the Range Superintendent within 24 hours of the occurrence of accident. The Tribunal in the case of Ramala Sehkari Chinni Mills Ltd Vs CCE Meerut-I reported in 2007 (213) ELT 361 (Tri.-Del) held that losses occurring due to storage as well as leakage while transferring molasses to tankers are handling losses and intimation to Range Superintendent within 24 hours in terms of Trade Notice is not applicable. The Tribunal allowed the loss being only 0.21% following the CBEC Circular No. 261/50/82-Ex dated 18.7.1983. Board has clarified that such losses which have been less than 2% , remission of duty is allowed. In the present case, the loss is 0.79% and covered by the Board Circular dated 18.7.83. In view of that, the impugned order is set aside. The Appeal is allowed with consequential relief.

(Order is dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Member(Judicial)