

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/2518/2006-SM[BR]

Date 29/07/2008

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

To :
M/S DSM SUGAR ASMOLI
VILLAGE- ASMOLI, TEHSIL- SAMBHAL, DISTT-
MORADABAD.
M/S DSM SUGAR ASMOLI

Appellant

Vs

Respondent

C.C.E.MEERUT -II

I am directed to transmit herewith a certified copy of Final order No. 1106 /2008 -SM[BR] dated 24.7.2008

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 -II

OPP C.C.S. UNIVERSITY, MANGAL PANDEY NAGAR, MEERUT(UP)

2. Adv. / Consult

MR.RAJESH KUMAR

24A, DDA SFS FLAT, MOUNT KAILASH, EAST OF KAILASH, N.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 AND SERVICE TAX APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI, COURT NO.1

EXCISE APPEAL NO. 2518 OF 2006-Single Member

[Arising out of order-in-Appeal No. 104-CE/MRT-II/2006 dated 28.4.2006
passed by Commissioner (Appeals), Customs and Central Excise, Meerut]

Date of Hearing: 24.7.2008

Date of Decision: 24.7.2008

For approval and signature:

Hon'ble Ms. Jyoti Balasundaram, Vice-President

-
1. Whether Press Reporters may be allowed to see : *Yes*
the Order for publication as per Rule 27 of the
CESTAT (Procedure) Rules, 1982?
 2. Whether it should be released under Rule 27 : *No*
of the CESTAT (Procedure) Rules, 1982 for
publication in any authoritative report or not?
 3. Whether Their Lordships wish to see the fair : *Seen*
copy of the Order?
 4. Whether Order is to be circulated to the : *Yes*
Departmental authorities?
-

M/s. DSM Sugar Asmoli

Applicant

[Rep. by: Shri Rajesh Kumar, Advocate]

Versus

CCE, Meerut-II

Respondent

[Rep.by : Shri S.Gautam, DR]

Coram: Hon'ble Ms. Jyoti Balasundaram, Vice-President

Final **ORDER** No. 1106/08-SM(BR)

Per Jyoti Balasundaram:

Modvat credit has been denied on (1) Rolgard Grease (2) Dry Ice (3)

Sulphamic Disalant and (4) Sulphuric Acid on the ground that these items

not are inputs used directly or indirectly in or in relation to manufacture of the

viz appellants' products including sugar and molasses.

2. Heard both sides. I note that no reasoning has been given by either the adjudicating authority or the lower appellate authority to come to the above conclusion. The appellant~~s~~ in this case has explained the nature and use of the items in question. It was incumbent upon the Assistant Commissioner to have considered the above submissions and given reasons as to why the items are not to be considered inputs for the purpose of availment of modvat credit. The Commissioner (Appeals) has only endorsed entirely the order of the adjudicating authority. In these circumstances, it would meet the ends of justice if the issue is considered afresh. Therefore, I set aside the impugned order and remit the matter for fresh decision to the adjudicating authority who shall pass a speaking order after extending reasonable opportunity to the appellants of being heard in their defence.

3. The appeal is thus allowed by way of remand.

[Dictated and pronounced in the open Court on 24.7.2008]

[Jyoti Balasundaram]
Vice-President

nk