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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/2686/2006-SM[BR]

Date 11/08/2008

Assistant Registrar
C.E.S.T.A.T, New Delhi
To :
THE GENERAL MANAGER
M/S J.K.SUGAR LTD.
MEERGANJ DISTT; BAREILLRY[U.P]

M/S J.K.SUGAR LTD. Appellant

Vs

CCE,MEERUT-II Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1120 / 2008 –SM[BR] dated 16.6.2008 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar

(SM Appeal Branch)

Copy to :

1. Respondent

   CCE,MEERUT-II

2. Adv. / Consult SHRI KAPIL VAISH C.A.
   B-51, BUTLER PLAZA
   95, CIVIL LINES BARILLY[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. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15
15. Office Copy
16. Guard file

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH NEW DELHI

Excise Appeal No. 2686 of 2006-SM (BR)

[Arising out of common Order-in-Appeal No.117-CE/MRT-II/2006 dated 26.5.2006 passed by the Commissioner of Central Excise (Appeals), Meerut]

Date of Hearing/ Decision:16.06.2008

For approval and signature:

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

1. Whether Press Reporters may be allowed to see 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.

J.K. Sugar Ltd. ...Appellants
[Rep. by Shri Kapil Vaish, C.A.]

Vs.

CCE, Meerut-II ....Respondent
[Rep. by Shri A.K. Rastogi, DR]

CORAM: **Mr. P.K. Das, Member (Judicial)**

Final Order No.1120/08 SM (BR)/Dated:16.6.2008

Per P.K. Das:

The Appellant filed this appeal against denial of credit on Welding Electrodes and Packing Materials and imposition of penalty.

2. After hearing both the sides and on perusal of the records, I find that the Larger Bench of the Tribunal in the case of Jayee Rewa Plant Vs.CCE, Raipur reported in 2003 (57) RLT 739 (CEGAT-LB) held that Welding Electrode is not eligible for Cenvat Credit.

3. Ld. Counsel cited the decision of the Hon'ble Rajasthan High Court in the case of Shree Neer Cement, whereby Revenue appeal was dismissed. The ld. DR cited the decision in the case of J.K. Cement was reported in 2007 (211) ELT 235.

4. After considering the decision of the Hon'ble Rajasthan High Court in the case of Shree Neer Cement (supra), the Tribunal in the case of J.K. Cement Ltd. (supra) held that denial of credit on Welding Electrodes is justified. Regarding credit on Packing and Joint Sheet Materials, it is seen from the order that the said items were used for joining of tubes and pipes for preventing of leakage used in the manufacture of final products. The Tribunal in the case of KCP Sugar Industries Ltd. Vs. CCE reported in 2004 (62) RLT 764 held that packing materials used for the purpose of preventing the leakage of tubes and pipes, are eligible for Cenvat Credit. Hence, the Appellants are entitled to avail credit on the Jointing Sheets and Packing Materials.

5. In view of the above discussion, denial of credit on Welding Electrodes is upheld and denial of credit on Jointing Sheet Materials and Packing Materials are set aside. As the issue of denial of credit on Welding

Electrodes is decided by the Larger Bench of the Tribunal and imposition of penalty is not warranted. Accordingly, the penalty is set aside.

Order dictated & pronounced in open court on 16.06.2008.

(P.K. Das)
Member (Judicial)

Ckp.