

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/1013/2008-SM[BR] E/ STAY /967 / 2008

Date 22/08/2008

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

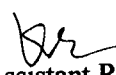
To :
M/S WINSOME SPECTRUM
PLOT NO. 1, SAI ROAD, IND. AREA, BADDI (H.P.)
M/S WINSOME SPECTRUM

C.C.E. CHANDIGARH

Appellant

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No 1152 /2008-SM[BR] & S/488/08. dated 18.7.2008
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. CHANDIGARH

C.R. BUILDING, PLOT NO. 19, SECTOR 17-C, CHANDIGARH 160017

2. Adv. / Consult

MR.DSK LEGAL, ADVOCATES

46, ARADHANA, CHANAKYA PURI, NEW DELHI-110 066.

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

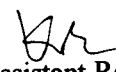
12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar, Chennai 60017

13. Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kunj, New Delhi - 110070

14. 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 Stay Application No.967 of 2008-SM (BR)
In Appeal No.1013 of 2008-SM (BR)

[Arising out of common Order-in-Appeal No.01/CE/CHD/2008 dated 16.01.2008 passed by the Commissioner of Central Excise, Chandigarh]

Date of Hearing/ Decision:18.07.2008

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. | : | } <i>MA</i> |
| 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/s. Winsome Spectrum ...Appellants
[Rep. by Shri Rakesh Sharma, Advocate]

Vs.

CCE, Chandigarh

...Respondent
[Rep. by Shri Sansar Chand, DR]

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

Final Order No. 1152/2008-SM(CBR) & Stay/488/2008.
...../Dated:18.07.2008

Per P.K. Das:

After hearing both the sides and on perusal of the records, I find that the issue involved in this case is in narrow compass and, therefore, after granting stay, the appeal is taken up for disposal.

2. The issue involved in this case is demand of interest and penalty on reversal of input-credit when remission granted on final product destroyed in fire/accident. The Appellant already reversed the credit and not disputed the said reversal. The Commissioner (Appeals) upheld the demand of interest and penalty following the decision of the Tribunal in the case of Mafatlal Industries Vs. CCE – 2003 (154) ELT 543 (Tribunal). It is seen that the Larger Bench of the Tribunal in the case of Grasim Industries Ltd. Vs. CCE, Indore reported in 2007 (208) ELT 336 (Tribunal-LB) over-ruled the decision of the Tribunal in the case of Mafatlal Industries (supra). In any event, the Appellant has not disputed the reversal of Credit.

3. In view of the decision of the Larger Bench of the Tribunal, the demand of interest and penalty are not sustainable. Accordingly, the impugned order in so far as demand of interest and penalty are set aside. The appeal is allowed with consequential relief.

Order dictated & pronounced in open court on 18.7.2008.

(P.K. Das)
Member (Judicial)

Ckp.