

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/3859/2006-SM[BR]

Date 01/09/2008

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

To :
M/S U.S.FOODS PVT LTD
PLOT NO 8 & 9, NATIONAL HIGHWAY,
GAJRAULA(UP)
M/S U.S.FOODS PVT LTD

Appellant

Vs
Respondent

C.C.E. MEERUT I

I am directed to transmit herewith a certified copy of Final order No. 1230 / 2008 -SM[BR] dated 6.8.2008
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.RISHI & ASSOCIATES

60-VILVESHWARPURI,BEHIND SADAR THANA, MEERUT CANTT, MEERUT.

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 Appeal No.3859 of 2006-SM (BR)

[Arising out of Order-in-Appeal No.111-CE/MRT-II/2006 dated 17.05.2006
passed by the Commissioner of Central Excise (Appeals), Meerut-II]

Date of Hearing/ Decision:06.08.2008

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? :
-

M/s. U.S. Foods Pvt. Ltd.

...Appellant
(Rep. by None.)

Vs.

CCE, Meerut-I

...Respondent
[Rep. by Shri A.K. Rastogi, DR]

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

Final Order No...1230/08-sm(BR) Dated:06.08.2008

Per P.K. Das:

None appeared on behalf of the Appellant despite issue of notice.

Heard the ld. DR on behalf of the Revenue.

2. After hearing the Id. DR and on perusal of the records, it is seen that the Appellant availed Credit on the duty paid return goods under Rule 16 of the Central Excise Rules, 2002. Credit is admissible, if goods are received for re-made, repair or any other reason. In the present case, it is seen from the order of the Commissioner (Appeals) that an inquiry was conducted from the Range Office and it has been reported by the Range Superintendent that the goods were received after the expiry date printed on the packets of the biscuits and as such the same is unfit for human consumption. The rejected goods are not fit for re-processed, remade etc. Hence, the Appellant is not entitled to avail the credit on the returned goods under Rule 16 of the said Rules. Regarding imposition of penalty of equal amount of duty, on perusal of the show cause notice and on scrutiny of the records, it was found that the Appellant appeared to have taken the wrong credit. So, the imposition of equal amount of duty is excessive. Accordingly, disallow of credit with interest is upheld and penalty is reduced to Rs.10,000/- (Rupees Ten Thousand only). The appeal is disposed of in the above terms.

Order dictated & pronounced in open court on 6.8.2008.

(P.K. Das)
Member (Judicial)

Ckp.

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/3859/2006

Date 09/04/2007

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

To :

M/S U.S.FOODS PVT LTD
PLOT NO 8 & 9, NATIONAL HIGHWAY,
GAJRAULA(UP)

M/S U.S.FOODS PVT LTD

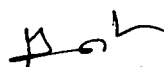
Appellant

Vs

C.C.E.MEERUT I

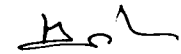
Respondent

I am directed to transmit herewith a certified copy of Final order No. 678/07-SM(BL) dated 5/3/07
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
MANGAL PANDEY NAGAR, MEERUT
2. Adv. / Consult
MR.RISHI & ASSOCIATES
60-VILVESHWARPURI, BEHIND SADAR THANA,
MEERUT CANTT, MEERUT.
3. S.D.R.
4. J.C.D.R.
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7. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah
8. Excise & Customs cases, B-37, Sector -I, NOIDA - 201301
9. R.Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,
12. Co, Law Institution
13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file


Assistant Registr
(SM Appeal Branch)

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL**
West Block No.2, R.K. Puram, New Delhi-110066.
Principal Bench, New Delhi

COURT NO. IV

Excise Appeal No. 3859 of 2006

[Arising out of the Order-in-Appeal No. 111/CE/MRT-II/2006 dated 17/05/2006 passed by The Commissioner, Central Excise, Meerut.]

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 would 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 :
Department Authorities:

M/s U.S. Foods Pvt. Ltd.

Appellant

Versus

CCE, Meerut – I

Respondent

Appearance

None - for the appellant.

Shri S. Kumar, Authorized Representative (DR) - for the
respondent.



CORAM: Hon'ble Shri P.K. Das, Member (Judicial)

DATE OF HEARING : 05/03/2007.

Final Order No. 678/07SM(B2) Dated: _____

Per. P.K. Das :-

By stay order dated 19th January 2007, the appellant was directed to deposit the entire amount of duty within six weeks and report compliance on 5th March 2007. Today, when the matter was called, none appeared on behalf of the appellant and there is no compliance report in the file. As such, the appeal is dismissed for non-compliance of the stay order Under Section 35F of Central Excise Act, 1944.

(Dictated and pronounced in the open court)


(P.K. Das)
Member (J)

PK