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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/691 /2007 – SM[BR]   Date 24/11/2008

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

To :
M/S VENUS SUGAR LTD.
V. MAZHAWLI, CHANDAUSI, DISTT. MORADABAD
(U.P.)

M/S VENUS SUGAR LTD.   Appellant
Vs
C.C.E. MEERUT-II   Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1500 / 2008 - **SM[BR]** dated **23.10.2008**

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. SHAHEED PARK, (NEAR ASHOK KI LAT), DELHI ROAD, MEERUT (U.P.)

2. Adv. / Consult SHRI S.K.GADHOK ADV.
133 / 6, SHASTRI NAGAR MEERUT [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 - 3
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
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-1
15 Office Copy
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Assistant Registrar
(SM Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATETRIBUNAL,
West Block No.2, R.K Puram, New Delhi-110066

Court-IV

Date of hearing: 23.10.08

E/Appeal No.691/2007-SM(BR)

(Arising out of Order-in-Appeal No. 210-CE/MRT-II/2006 dated 22.11.2006 passed by the Commissioner (Appeals) Customs & Central Excise, Meerut)

For approval and signature:

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

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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?

No.

Yes.

M/s Venus Sugar Ltd. — Appellant/Applicant
(Shri S.K. Gadhok, Advocate for the Appellant)

Vs.

CCE, Meerut — Respondent
(Shri R.K. Verma, DR for the Respondent)

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

Final Order No. 1500/08-SM (BR)

Per: P.K. Das

After hearing both the sides and on perusal of the records, it is seen that the impugned order was passed by the Commissioner (Appeals) against shortage of stocks of molasses. Section 35 B (1) of Central Excise Act, 1944 provides no appeal would lie before Tribunal ~~order in appeal~~ against order of the Commissioner (Appeals) relating to loss of goods or shortage in a factory. The Larger Bench of the Tribunal, Commissioner of Central Excise, Jamshedpur Vs Tisco Ltd. 2008 (227) ELT 203 (Tri.-LB) held that appeal arising out of the order of the Commissioner (Appeals) relating to loss of goods in a storage in a factory are not maintainable before this Tribunal. In view of that the decision of the Larger Bench of the Tribunal, the appeal is dismissed as ~~per~~ not maintainable. However, the appellant may file revision application before the Central Government under Section 35 EE Central Excise Act, 1944 as observed by the larger Bench of the Tribunal in the case of TISCO Ltd. (Supra).

(Dictated and pronounced in the open court).

(P.K. Das)
Member (Judicial)

K. Gupta