

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/ 1108 / 2007 -SM [BR]

Date 03/12/2008

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

To :
M/S TRIVENI GLASS LTD.
IVADATGANJ, ALLAHABAD.
M/S TRIVENI GLASS LTD.

C.C.E ALLAHABAD

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 1571 / 2008 - SM[BR] dated 26.11.2008
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 ALLAHABAD

38, M.G.MARG, CIVIL LINES, ALLAHABAD

2. Adv. / Consult

MR. V. LAXMIKUMARAN

B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029

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 - 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), Thyagarava 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

16 Guard file


Assistant Registrar
(SM Appeal Branch)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH
NEW DELHI, COURT NO.I**

Excise Appeal No. 1108 of 2007-SM

[Arising out of Order-in-Appeal No. 6/CE/ALLD/07 dated 22.1.2007 passed by the Commissioner of Central Excise (Appeals), Allahabad]

Date of Hearing/Decision : 26.11.2008

For approval and signature:

Hon'ble Ms. Jyoti Balasundaram, Vice President

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

M/s Triveni Glass Limited

Appellant

Vs.

CCE, Allahabad

Respondent

Appearance:

Mr. Ravi Raghavan, Advocate for the appellant

Mr. S. Gautam, DR for the respondent

CORAM: Ms. Jyoti Balasundaram, Vice President

Final Order 15/11/2008 sm (Br)

Per Jyoti Balasundaram:

In this case modvat /cenvat credit of Rs. 65,957/- has been disallowed and confirmed against the assessee who are manufacturer of sheet glass, together with interest and imposition of penalty of Rs. 20,000/-. The credit has been disallowed on furnace oil destroyed in fire which had broken ^{out} in the assessee's factory on 28.5.2000 for the reason that the destruction of the inputs ~~take~~ ^{took} place before they were used in the manufacture of the final product namely sheet glass.

2. I have heard both sides. Although it has been the constant claim of the assessee that the furnace oil was continuously flowing from the storage tank through the pipe line for manufacture of final products, I find that no evidence has been produced to this effect by them. The authorities below have therefore rightly held that the claim of the assessee's that input (furnace oil) was issued for the intended use in the manufacture of final product remains unsubstantiated. Therefore, I uphold the denial of the credit. As regards penalty, the finding that the incidence of fire was not intimated to the Department justifies the penalty on the ground that it was not brought to their notice that fire has broken out leading to destruction/loss thereof, therefore, penalty is also upheld.

3. In the result, I uphold the impugned order and reject the appeal.

[Dictated and pronounced in the open Court]

[Jyoti Balasundaram]
Vice President

[Pant]