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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/9 /2007 – SM[BR] Date 04/12/2008

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

To :
GHATAMPUR SUGAR CO LTD

GHATAMPUR, KANPUR NAGAR.

GHATAMPUR SUGAR CO LTD Appellant

Vs

C.C.E.KANPUR Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1581 / 2008 –SM[BR] dated 20.10.2008

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.KANPUR

117/7, SARVODAYA NAGAR, KANAPUR.
2. Adv. / Consult
MR.BIPIN GARG

B-1/1289,A-VASANT KUNJ, NEW DELHI

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
16 Guard file

Assistant Registrar

(SM Appeal Branch)

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

E/ Appeal No.09 of 2007-SM (BR)

[Arising out of Order-in-Original No.03/Commr/Tech/Rem/2006 dated 28.09.2006 of the Commissioner of Central Excise , Kanpur]

Date of Hearing/ Decision:20.10.08

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.		No
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?	:	Yes

M/s. Ghatampur Sugar Company Ltd. ...Appellants
[Rep. by Shri Bipin Garg, Advocate]

Vs.

CCE, Kanpur ....Respondent
[Rep. by Shri R.K. Verma, DR]

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

Final Order No..1581/2008 SM (BR)/Dated:20.10.2008

Per P.K. Das:

The appellant filed this appeal against rejection of application for of remission of duty amounting to Rs.52,615/- involved in 619 bags of sugar.

2. After hearing both the sides and on perusal of the records, it is seen that the Adjudicating Authority rejected the application for remission of duty on the ground that the contention of appellant that they informed the Range Superintendent within 24 hours of its occurrence over phone, is not correct. The appellant informed the Range Superintendent by registered post, which was received by them on 19.06.2003. The finding of the Commissioner is that the fire accident cannot be said to have occurred due to natural cause beyond the control of the appellants. It has also been observed that the appellant changed their stand regarding the quantum of sugar lost during fire accident.

3. Ld. Advocate submits that there is no dispute that the fire was occurred at their factory and the central excise officers verified at the factory premises. He further submits that the fire accident cannot be attributed to anybody's negligence. He also submits that the Insurance Company settled the claim on 619 bags of sugar, which was finally informed to the central excise officers in their application. Ld. Advocate relied upon the decisions of the Tribunal:-

(1) M/s. Gangeshwar Ltd. Vs. CCE, Allahabad – 2002 (141) ELT 654 (T-D)

(2) M/s. Shiva Essential Oils & Chemicals Vs. CCE, Noida 2004 (168) ELT 121 (Tribunal-Delhi)

(3) U.P. State Sugar Coproration Ltd. Vs. CCE, Meerut 2004 (168) ELT 280 (Tribunal-Delhi)

4. On perusal of the records, it is seen from the show cause notice that fire was broken out at the appellant's factory on 11.06.2003 due to burst of 500 watt Electric bulb and the central excise officers visited the

appellants' factory on 20.06.2003 and recorded statement of the Director of the appellant company, who accepted that only 126 bags were damaged due to fire. Thereafter, by letter dated 1.10.2003, the appellants informed that 619 bags were burnt in fire and no remnant of these burnt bags was available with them. Thus, it appears that the central excise officers during their visit to the appellants factory found 126 bags of sugar damaged due to fire. Therefore, I agree with the ld. DR that the remission of duty on the quantity of 619 bags is not sustainable. The Tribunal in the case of U.P. State Sugar Corporation Ltd. (supra) held that no accident can be attributed to anybody's carelessness. So, the finding of the Commissioner on this issue, is not justified. Regarding the furnishing of the information about the accident to the Range Superintendent beyond the 24 hours, I find that the central excise officers verified the appellant's factory upon information by the appellant and ascertained the damage of 126 bags of sugar. So, the appellant is entitled to remission of duty to the extent of 126 bags of sugar. Accordingly, the impugned order is modified in so far as the appellant is entitled to claim the remission of duty involving 126 bags of sugar damaged during the fire accident. The appeal is allowed in the above terms.

Order dictated & pronounced in open court on 20.10.08

(P.K. Das)
Member (Judicial)

Ckp.