

**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/118 /2007 – SM [BR]

Date 05/01/2009

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

To :
M/S PEPSICO INDIA HOLDINGS PVT. LTD.
A-2, UPSIDC, 2ND FLOOR, SITE 2, BAZPUR, DISTT.
UDHAM SINGH NAGAR, UTTARANCHAL.
M/S PEPSICO INDIA HOLDINGS PVT. LTD.

Appellant

Vs

Respondent

C.C.E. MEERUT

I am directed to transmit herewith a certified copy of **Final order No. 1643 / 2008- SM[BR]** dated 28.11.2008
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. MEERUT

MANGAL PANDEY NAGAR, OPP. MEERUT UNIVERSITY, MEERUT.

2. Adv. / Consult SHRI RAVI RAGHAVAN ADV
B-6/10, SAFDERJUNG ENCLAVE
NEW DELHI -29.

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), Thvagarava Road, T. Nagar, Chennai

13 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kuni, 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. 118 of 2007-SM

[Arising out of Order-in-Appeal No. 140/CE/MRT-II/2006 dated 31.7.2006
passed by the Commissioner of Customs & Central Excise, Meerut-II]

Date of Hearing/Decision : 28.11.2008

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.	Yes
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 Pepsico India Holdings Pvt. Ltd.,

Appellant

Vs.

CCE, Meerut

Respondent

Appearance:

Mr. Ravi Raghavan, Advocate for the appellant

Mr. S. Gautam, DR for the respondent

CORAM: Ms. Jyoti Balasundaram, Vice President

Find Order No. 1643/08-sm(DR)

Per Jyoti Balasundaram:

The issue in dispute in the present appeal namely as to whether credit
availed on inputs required to be reversed when remission of duty on final
products ~~stands~~ destroyed in fire/accident is granted.

2. On hearing both sides I find that this issue stands settled in favour of the assessee by the Larger Bench of the Tribunal in Grasim Industries Ltd., vs. CCE, Indore reported in 2007 (208) ELT 336 (Tri.-L.B.) holding that credit is not required to be reversed as destruction of goods due to natural cause or by unavoidable accident during handling or storage cannot be equated with exemption to goods and the inputs can be considered to have been put to intended use for the manufacture of the final product.

3. Following the ratio of the Larger Bench of the Tribunal, I set aside the impugned order and allow the appeal.

[Dictated and pronounced in the open Court]

[Jyoti Balasundaram]
Vice President

[Pant]