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VILL: CHOHAL,
DISTT. HOSHIARPUR

CUSTOMS. EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
SINGLE MEMBER APPEAL BRANCH

Appeal No. ST/179 /2008-181 /2008 AND 192 /2008 -SM[BR] Date 06/01/2009

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

To :-
C.C.E. JALLANDHAR(HQ. AT CHANDIGARH)
C.R.BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH.

C.C.E. JALLANDHAR(HQ. AT CHANDIGARH) Appellant
Vs
THE SUKHJIT STARCH AND CHEMICALS LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1675 – 1678 / 2008- **SM[BR]** dated 30.12.2008 passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

THE SUKHJIT STARCH AND CHEMICALS LTD.
SARAI ROAD,
PHAGWARA (PUNJAB]

[2] M/S JCT LTD. FILAMENT UNIT
DHARAMSHALA ROAD VILL; CHOHAL
DISTT; HOSHIARPUR [P.B]
[3] M/S JCT LTD;------------------------------------
[4] M/S ARIHANT SPINNING MILLS
INDUSTRIAL AREA, MALERKOTAL [P.B]

2. Adv. / Consult
MR.G.S.BHANGOO
631 (FF), SECTOR 11B, CHANDIGARH

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, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH NEW DELHI, COURT NO.I

Service Tax Appeal Nos. 179 – 181 and 192 of 2008-SM (Br.)
[Arising out of Order-in-Appeal No. 33-35 & 401/CE/Appl/Jal/2008 dated 05.02.2008 and 3.1.2008 passed by the Commissioner (Appeals) Central Excise, Jalandhar]

Date of Hearing/Decision : 26.12.2008

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?	
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

CCE, Jalandhar/ Chandigarh — Appellant

Versus

M/s The Sukhjit Starch and Chemicals Ltd., — Respondent
M/s JCT Limited
M/s Arihant Spg. Mills

Appearance:

Mr. S.K. Panda, Jt. CDR for the appellant
Mr. Rupender Singh, Advocate for the respondent

CORAM: Ms. Jyoti Balasundaram, Vice President

Final **Order** No. 1675–1678/08-SM(BR)

Per Jyoti Balasundaram:

The common issue for decision in all four appeals is as to whether service tax liability can be discharged only by way of payment in cash or through utilization of cenvat credit.

2. On hearing both sides, I note that the issue in dispute stands squarely covered in favour of the assessee by the decision of the Tribunal in the case of CCE, Chandigarh vs. Nahar Industrial Enterprises Ltd., reported in 2007-TIOL-555-CESTAT-DEL, which has been relied upon by the lower appellate authority in the impugned order. Although the Commissioner has challenged the Tribunal's decision by preferring an appeal against the same before the Hon'ble High Court of Punjab & Haryana, no order staying operation of the Tribunal's order has been brought to my notice and it is not establish that it has either been stayed or reversed by the High Court. In these circumstances, there is no reason for me to hold that the Commissioner (Appeals) has committed any error or irregularity in following the decision in Nahar Industrial Enterprises Ltd., and accordingly uphold the impugned orders and dismiss the appeals.

[Dictated and pronounced in the open Court]

[Jyoti Balasundaram]
Vice President

[Pant]