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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/33 /2005-SM[BR] Date 09/04/2008

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

To :
C.C.E. LUCKNOW
7-A, ASHOK MARG, LUCKNOW.

C.C.E. LUCKNOW Appellant
Vs
M/S SARJOO SAHKARI CHINI MILLS LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 605 /2008 –SM[BR] dated 29.2.2008 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
   M/S SARJOO SAHKARI CHINI MILLS LTD.
   BELARAYAN, LAKHIMPURKHERI
2. Adv. / Consult SHRI. BIPIN GARG ADV.
   B-1/1289-A, VASANT KUNJ NEW DELHI-110070

3. S.D.R.
4. ~~J.C.D.R.~~
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, marg. 43, saket, New
7. M/s Centax Publictions (P) Ltd., 1512-E, Bhishm Pitamah
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301
9. R.Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,
12. Co, Law Institution
13. TAX INDIA, B-XI/8183,Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No.33 /2005-SM

(Arising out of order in appeal No.301/CE/04 dated 29.9.2004 passed by the Commissioner of Central Excise (Appeals), Lucknow)

For approval and signature:

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

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

CCE, Lucknow — Appellant
(Rep. by Shri Rajmal, DR)

Vs

M/s Sarjoo Sahkari chini Mills Ltd — Respondent
(Rep. by Shri Bipin Garg, Advocate)

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

Date of Hearing: 29.2.2008

Final Order No. 605 /2008-SM(BR)

Per P.K. Das:

Heard both the sides and perused the records. The Revenue filed this appeal against the order of Commissioner (Appeals). The learned DR on behalf of the Revenue submits that there was a discrepancy in the original invoice and the duplicate copy of invoice. Therefore, Commissioner (Appeals) is not correct to allow the credit.

2. I find that the Tribunal by Final order No A/1205-1228/2001 dated 27.8.2001 held that the defects are curable and remanded the matter to the commissioner (Appeals) for reconsideration on merits after rectifying the defects. On perusal of the order of the Commissioner (Appeals), I find that the Commissioner observed that no discrepancy has been noticed in the duplicate copy which was referred as invalid. The Revenue had not disputed the finding of the Commissioner (Appeals) in this regard. The allegation made by the learned DR was in the show cause notice. The Tribunal remanded the matter to remove the defects and after examining the defects, the Commissioner (Appeals) allowed the credit. I do not find force in the submission of the learned DR. Accordingly, there is no reason to interfere with the order of the Commissioner (Appeals). The appeal field by the Revenue is rejected.

(Order dictated and pronounced in the open Court).

(P.K. Das)
Member(Judicial)

MPS*