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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/3914/2006,3955/2006-SM[BR] Date 09/04/2008

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

To :
(1-2) M/S SHREYANS IND. LTD.
V.P.O. BANAH, TEH. BALACHAUR, DISTT.
NAWAMSHAHAR (PUNJAB)

M/S SHREYANS IND. LTD. Appellant

Vs

C.C.E. JALLANDHAR(HQ. AT CHANDIGARH) Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 606 -607 /2008-SM[BR] dated 27.3.2008 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. JALLANDHAR(HQ. AT CHANDIGARH)
   C.R.BUILDING, PLOT NO. 19, SECTOR 17-C,
   CHANDIGARH.
2. Adv. / Consult
   MR K.K.ANAND Adv.
   A-5, BASMANT LAJPAT NAGAR –III, NEW DELHI-24
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)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI

COURT – II

EXCISE APPEAL No. 3914 & 3955 OF 2006-SM

[Both appeals arising out of common Order-in-Appeal No. 281/CE/Appl/Jal/2006 dated 22.09.2006 passed by the Commissioner (Appeals), Central Excise, Jalandhar]

For approval and signature:

Hon'ble Mr. S.S. Kang, 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?	
2.	Whether it would 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?	

M/s. Shreyans Industries Ltd., Appellants

Vs.

CCE, Jalandhar &
Vice versa Respondent

Appearance:

Shri Hemant Bajaj, Advocate for the appellants,
Shri Sumit Kumar, SDR for the Revenue

Coram:

Hon'ble Mr. S.S. Kang, Vice President,

Date of Hearing: 27th March, 2008

FINAL ORDER NO. 606-607/08-SM(BR) dated 27.3.08

Per S.S. Kang:

Heard both sides.

2. The assessee has filed appeal No. E/3914/06-SM against the impugned order whereby credit in respect of packing material 'Gasket of asbestos' was denied and penalty imposed. Revenue has filed appeal No. E/3955/06-SM against the impugned order whereby the Commissioner (Appeals) has reduced the quantum of penalty.

3. The assessee is engaged in the manufacture of writing and printing papers and soda ash. The appellants were working under CENVAT scheme. The assessee availed credit in respect of packing material as capital goods. Case of the Revenue is that gasket is classifiable under Chapter 68 of the Central Excise Tariff, and hence, not covered under specified item under the definition of capital goods. Therefore, credit was rightly denied.

4. Contention of the assessee is that as per definition of the capital goods, components, spares and accessories and specified goods are also covered under the scope of capital goods. As the gaskets are used to prevent leakage of gas during the manufacture of their final product, they being spares of specified goods are entitled for credit. The appellants also relied upon the decision of the Tribunal in the case of

KCP Sugar & Industries Ltd. vs. CCE, Guntur, reported in 2004 (178) ELT 275 (Tri.-Bang.). The Tribunal has held as under:-

"We find that the Bench decision in the case of CCE, Patna v. Bihar Caustic & Chemicals Ltd., in respect of the product put in the very same use of seal leakage and allowing flow of liquids during manufacture from one equipment to another. In the above case, the Tribunal has held that the assessee is entitled to take credit. The decision relied upon by the Revenue is that of a learned Single Member. We are in full agreement with the view taken by the Bench in CCE, Patna v. Bihar."

In view of the above decision of the Tribunal, impugned order whereby the credit in respect of packing material is denied is not sustainable and is set aside. Consequently, appeal filed by the assessee is allowed and appeal filed by the Revenue is dismissed.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

Dated 27th March, 2008

RK