TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

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/200 -201 /2008-SM[BR], E/STAY/ 229 -230 /2008-SM[BR] Date 10/04/2008

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

To :
(1-2) M/S PRATAP SUGAR & INDUSTRIES LTD
(NOW BAJAJ HINDUSTAN SUGAR & INDS LTD)
PRATAPPUR, DEORIA(UP)
M/S PRATAP SUGAR & INDUSTRIES LTD Appellant
Vs
C.C.E ALLAHABAD Respondent

I am directed to transmit herewith a certified copy of **Final order** No. 619- 620 /2008-SM[BR]&S/ 268-269/008 dated 21.2.2008

passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
C.C.E ALLAHABAD
38,M.G.MARG, CIVIL LINES, ALLAHABAD
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 Delhi -
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 60017
13. Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
14. Office Copy
15. 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. III

Excise Stay Applications Nos.229-230 **of 2008 in**
Appeals Nos.200-201 of 2008

[Arising out of order in appeal No.189-190/CE/ALLD/07 dated 26.10.2007 passed by the Commissioner (Appeals), Customs & Central Excise, Allahabad]

Date of Hearing/ Decision:21.2.2008

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?	:	No
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. Pratappur Sugar & Industries Limited ...Appellants
[Rep. by Shri Bipin Garg, Advocate.]

Vs.

CCE, Allahabad Respondent
[Rep. by Mr. A.K. Rastogi, Authorized Representative (DR)]

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

S.O. No. 268-69/2008-SM (BR)
Final Order No. 619-620/08-SM(BR)/Dated:21.2.2008

Per P.K. Das:

After hearing both the sides and on perusal of the records, I find that the issue involved in this case is in narrow compass and, therefore, after granting stay, both the appeals are taken up together for hearing.

2. I find that the Revenue filed an appeal against the earlier Order of the Commissioner (Appeals) before this Tribunal, which was set aside by the Final Order No.743-744/2007-SM (BR) dated 10.4.2007 and remanded back to the Commissioner (Appeals) to decide the issue afresh in the light of the Larger Bench's decision in the case of Rallies India Ltd. Vs. CCE, Salem reported in 2007 (208) ELT 25 (Tribunal-LB). Thereafter, the appellants filed application for rectification of mistake in the Final Order dated 10.4.2007. By Misc. Order No.478-479/07-SM (BR) dated 28.9.2007., the Tribunal allowed the Misc. application filed by the appellants and directed the Commissioner (Appeals) to decide the matter in the light of the decision of the Tribunal in the case of CCE, Meerut Vs. Kichha Sugar Limited reported in 2000 (176) ELT 819 (Tribunal-Delhi), which has been upheld by the Hon'ble Supreme Court by Order dated 27.8.2004 in Civil Appeal No.4043/2003 – CCE, Meerut Vs. Sahakari Sugar & Allied Industries Ltd..

3. Ld. Advocate on behalf of the appellants submits that the rectification of mistake order dated 28.9.2007 was not placed before the Commissioner (Appeals) and, therefore, the Commissioner (Appeals) passed the impugned order on the basis of the earlier Order dated 10.4.2007 of the Tribunal. Accordingly, the impugned orders are set aside and the matters are remanded back to the Commissioner (Appeals) to decide afresh in term of the Misc. Order dated 478-479/07/SM (BR) dated 28.9.2007. Both the appeals are allowed by way of remand.

Order dictated & pronounced in open court on 21.2.2008.

(P.K. Das)
Member (Judicial)

Ckp.