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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/3246/2006-SM[BR] Date 15/04/2008

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

To :
M/S ABC PAPER
V&PO SAILA KHURD,DISTT-HOSHIARPUR(PB)

M/S ABC PAPER Appellant

Vs

C.C.E.JALANDHAR Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 624 /2008 –SM[BR] dated 28.2.2008 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.JALANDHAR
   HQ AT CHANDIGARH,PLOT NO 19,SECTOR 17-C,CHANDIGARH.
2. Adv. / Consult
   MR.SUVINEET SHARMA
   132, 10-A, 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 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 Appeal No.3246 of 2006-SM (BR)

[Arising out of Order-in -Appeal No.210/CE/APPL/JAL/2006 dated 28.6.2006 passed by the Commissioner of Central Excise, Chandigarh]

Date of Hearing/ Decision:28.2.2008

For approval and signature:

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

1. Whether Press Reporters may be allowed to see 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?	:	NA
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.ABC Paper ...Appellants
[Rep. by Shri Sumit Sharma, Advocate]

Vs.

CCE, Jalandhar Respondent
[Rep. by Mr. S. Gautam, Authorized Representative (DR)]

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

Final Order No. 624/08-SM (BR) /Dated: 28.2.2008

Per P.K. Das:

Heard both sides and perused the records.

2. The dispute is the calculation for determining the credit attributable to inputs used in or in relation to manufacture of Newprint (Nil duty) was to take the total credit during the month divided by the total production of newprint, writing of printing paper for printing educational textbooks (nil duty) and other writing and printing paper (dutiable). The ld. Advocate drew the attention of the Bench detailed calculation at page 25 of Appeal. He submits that a show cause notice dated 26.2.02 was issued demanding duty for the period Feb. 2001 to September, 2001, wherein credit of Rs.22,04,224/- was deducted as availed on inputs lying in stock on the date of completion of exemption. Another show cause notice dated 11.3.2005 was issued for the period April, 2001 to March, 2002 and the credit of Rs.22,04,214/- also included while calculating rate per M.T. of input utilised. He also submits that by double entry of the same amount in the present show cause notice 11.3.2005, the rate per M.T. Input utilization was increased and the differential demand of duty was raised. Commissioner (Appeals) observed that the appellants had taken the credit after 6.6.2001 and the production thereafter have to be taken into account. I find the contention of the appellant is that the erroneous determination of rate of

input per M.T. by including the credit amount of Rs.22,04,224/- , which was already included in the earlier show cause notice, are required to be verified by the adjudicating authority. Accordingly, the impugned order is set aside and the matter is remanded back to the adjudicating authority to examine the case and detailed calculation at page 25 of Appeal, as contended by the appellants. Needless to say that the adjudicating authority shall give proper opportunity of hearing before deciding the matter. The appeal is allowed by way of remand.

Order dictated & pronounced in open court on 28.2.2008.

(P.K. Das)
Member (Judicial)

Ckp.