

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/2478:- 2479/2006-SM(CBR)

Date 15/04/2008

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

To :

(1-2) THE DHAMPUR SUGAR MILLS PVT.LTD.
(CHEMICAL DIVISION), DHAMPUR, DISTT. BIJNOR,
U.P.
THE DHAMPUR SUGAR MILLS PVT.LTD.

Appellant

C.C.E. MEERUT I

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 627- 628 /2008 -SM[BR] dated 11.3.2008
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. MEERUT I

EXCISE CHOWK, UNIVERSITY ROAD, MANGAL PANDEY NAGAR, MEERUT - 250005.

2. Adv. / Consult

MR.RAJESH KUMAR

24A, DDA SFS FLAT, MOUNT KAILASH, EAST OF KAILASH, N.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 Publications (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)

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

E/Appeal No. 2478-79/2006-SM

(Arising out of order in appeal No.58/CE/MRT.II/06 dated 31.3.2006
passed by the Commissioner of Central Excise (Appeals), Meerut-II)

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?

M/s Dhampur Sugar Mills Ltd

Appellant
(Rep. by Shri Rajesh Kumar, Advocate)

Vs

CCE, Meerut

Respondent
(Rep. by Shri S. Gautam, DR)

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

Date of Hearing: 11.3.2008

Final Order No. 627-628 /2008-SM(BR)

Per P.K. Das:

Heard both sides and perused the records.

2 The appellants filed this appeal against the denial of credit on Welding Electrodes and Container lock. The learned Advocate submits that

the Hon'ble High Court in the case of CCE Jaipur Vs Neer Shree Cement Ltd Reference No.9/2002 dated 8.8.2003 rejected the Reference Application filed by the Revenue.

3. The learned DR submits that the Larger Bench of the Tribunal in the case of Triveni Engg Vs CCE reported in 2005 (186) ELT 158 disallowed credit on Welding Electrodes. The Tribunal in the case of JK Cement Vs CCE reported in 2007 (211) ELT 235 after considering the decision of the Hon'ble Rajasthan High Court, disallowed the credit on Welding Electrodes. Denial of credit on welding electrodes is justified.

4. It is contended by the appellants that Container lock was used as sealing the storage tank pump of Acetic Anhydride Plant in the factory premises. I agree with the finding of the lower authorities that container lock was not used in or in relation to the manufacture of final product.

5. In view of the above, denial of credit on welding electrodes and container lock is upheld. It is seen that the denial of credit on welding electrodes was settled by the larger Bench of the Tribunal and the issue relates to interpretation of provision of law. Accordingly, penalty is set aside. The appeals are disposed of in the above terms.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Member(Judicial)