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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/2229/2006-SM[BR] Date 16/04/2008

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

To :
DEWAN SUGAR MILLS
AGHWANPUR, DISTT.- MORADABAD

DEWAN SUGAR MILLS Appellant

Vs

C.C.E. MEERUT II Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 635 /2008 –SM[BR] dated 25.2.2008 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. MEERUT II
   OPP. SAHEED PARK (NEAR ASHOK KI LAT) DELHI ROAD, MEERUT (UP)
2. Adv. / Consult
   MR.KAMALJEET SINGH
   J-144, PATEL NAGAR -I,GHAZIABAD.
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)

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

E/Appeal No.2229 /2006-SM

(Arising out of order in appeal No.14/CE/MRT/2006 dated 31.1.06 passed by the Commissioner of Central Excise (Appeals), Meerut-II)

M/s Dewan Sugar Mills — Appellant
(Rep. by Shri Kamaljit Singh, Advocate)

Vs

CCE, Meerut-II — Respondent
(Rep. by Shri A.K. Rastogi, DR)

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

Date of Hearing: 25.2.2008

Final Order No. 635 /2008-SM(BR)

Per P.K. Das:

The appellants filed this appeal against denial of credit on Welding Electrodes, Jointing Sheets and HR Shapes, Sections.

2 After hearing both the sides and on perusal of record, I find that the Larger Bench of the Tribunal in the case of Triveni Engg & Industries Ltd Vs CCE reported in 2005 (186) ELT 158 and in the case of Jaypee Rewa Plant Vs CCE reported in 2003 (159) ELT 553 held that welding electrodes is not eligible for cenvat credit. The denial of credit on welding electrodes is justified.

3. It is seen from the impugned order that Joint sheets were used to prevent leakage from juice pipes and steel pipes. MS sheets Sections were used in the factory for the manufacture and repair of different parts of machinery. The Hon'ble Rajasthan High Court in the case of Union of India

Vs. Hindustan Zinc Ltd Vs CCE reported in 2007 (214) ELT 510 held that credit is available on these items.

4. I find that the Tribunal in the appellants own case vide Final Order No. 1354-1360/2007-SM dated 5.7.07, disallowed credit on welding electrodes and extended the benefit to other items. In view of the above, the denial of credit on welding electrodes is upheld and credit on other items is allowed. As the denial of credit on Welding Electrodes was upheld by the larger Bench of the Tribunal, penalty is set aside. The appeal is disposed of in the above terms.

(Order dictated and pronounced in the open Court).

(P.K. Das)
Member(Judicial)

MPS*