

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/1272/2006-1273/2006-SM[BR]

Date 16/04/2008

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

To :

(1-2) M/S MEWAR BARTAN NIRMAN UDYOG

SHASTRI NAGAR BHILWARA(RAJ)

M/S MEWAR BARTAN NIRMAN UDYOG

Appellant

CCE,JAIPUR-II

Vs

Respondent

I am directed to transmit herewith a certified copy of Final order No. 641 -642 /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

CCE,JAIPUR-II

NCR BLDG C SCHEME JAIPUR-II

2. Adv. / Consult SHRI P.S.CHAUDHARY

2ND FLOOR SHYAM FLATS, FATHAPURION KA DARWAJA
CHAURA RASTA, JAIPUR-302003

3. S.D.R.

4. I.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

⁶
E/Appeal No.1272-73/2006 -SM

(Arising out of order in appeal No.56-57/HKS/CE/JPR.II/06 dated 18.1.2006
passed by the Commissioner of Central Excise (Appeals), Jaipur)

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?

no.

M/s Mewar Bartan Nirman Udyog

Appellant
(Rep. by none)

Vs

CCE, Jaipur

Respondent
(Rep. by Ms.A.P. Mittal, Jt. CDR)

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

Date of Hearing: 25.2.2008

Final Order No. 641-642/2008-SM(BR)

Per P.K. Das:

By their letter dated 19.2.2008, the learned Consultant requested to adjourn the matter on the ground that he has some family function. I do not

find any reason for adjournment of the appeal for the reason that the Counsel is attending family function. The appeal is taken up for hearing.

2. After hearing the learned DR and on perusal of the record, it is seen that the refund application filed by the appellants was dismissed on the ground of time bar and unjust enrichment. The applicant filed the refund application on 24.4.2002 for the period May, 1997 to March, 2001. The refund application is arising out of denial of exemption benefit on the captive consumption which was decided by the Tribunal by Final Order No. 423/2002 dated 11.9.2002 in favour of the appellants. The Commissioner (Appeals) relied upon the decision of the Hon'ble Supreme Court in the case of Mafatlal Industries reported in 1997 (89) ELT 247. I find that the refund claim was filed under Section 11-B of the Central Excise Act, 1944. It is seen that the refund claim is beyond the period as prescribed under Section 11-B of the Act. Therefore, refund claim is rightly rejected. I do not find any reason to interfere with the order of Commissioner (Appeals). The appeal is rejected.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Member(Judicial)