

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/3008/2006-SM[BR]

Date 05/05/2008

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

To :
M/S DWARIKESH SUGAR INDUS LTD.
BUNDAKI, DISTT-BIJNOR(UP)

M/S DWARIKESH SUGAR INDUS LTD.

Appellant

Vs

C.C.E. MEERUT II

Respondent

I am directed to transmit herewith a certified copy of Final order No. 680 /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 II

MANGAL PANDEY NAGAR, MEERUT.

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 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, Indrapuram - 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)

E/Appeal No.3008/2006-SM

For approval and signature:

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 Dwarikesh Sugar Industries Ltd Appellant
(Rep. by Shri Atul Gupta, Co. Secy)

 V_S

CCE, Meerut-II

Respondent
(Rep. by Shri S.L Meena, DR)

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

Date of Hearing: 11.3.2008

Final Order No. 680 /2008-SM(BR)

Per P.K. Das:

The Appellants filed this appeal against denial of credit on Welding Electrodes and Packing Material.

2. After hearing both the sides and on perusal of record, I find that the Larger Bench of the Tribunal in the case of Jaypee Rewa Plant reported in 2003 (57) RLT 739 disallowed credit on Welding Electrodes. The learned Counsel relied upon the decision of the Hon'ble High Court of Rajasthan in the case of CCE Jaipur Vs Shree Neer Cement Factory.

3. I find that the Tribunal in the case of JK Cement Vs CCE Jaipur reported in 2007 (211) ELT 235, after considering the decision of Hon'ble High Court, held that Welding Electrodes is not eligible for credit. Denial of credit on Welding Electrodes is justified.

4. Regarding the Packing Material, it is seen that these materials were used for packing joints at various stations for jointing the various types of pipes to make them leak-proof. The Tribunal in the case of KCP Sugar & Industries Ltd Vs CCE Guntur reported in 2004 (62) RLT 764 allowed credit on packing material.

5. In view of the above, denial of credit on Welding Electrodes is upheld and denial of credit on Packing Material is set aside. As the issue involved is interpretation of provision of Rules, imposition of penalty is not warranted. Accordingly, penalty is set aside. The appeal is disposed of in the above terms.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Member(Judicial)