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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/3902/2006-SM[BR] Date 09/05/2008

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

To :
M/S DSM SUGR ASMOLI
VILLAGE- ASMOLI, TEHSIL- SAMBHAL, DISTT-
MORADABAD.
244004

M/S DSM SUGR ASMOLI Appellant

Vs

C.C.E.MEERUT II Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 725 /2008 –SM[BR] dated 13.3.2008

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
   SAHEED PARK, NEAR ASHOK KI LAT, MEERUT.
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 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.3902 of 2006-SM (BR)

[Arising out of Order-in-Appeal No.139-CE/MRT-II/2006 dated 31.07.2006 passed by the Commissioner (Appeals), Central Excise, Meerut]

Date of Hearing/ Decision:13.3.2008

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?	:	No.
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. DSM Sugar Asmoli — Appellants
[Rep. by Shri Rajesh Kumar, Advocate]

Vs.

CCE, Meerut — Respondent
[Rep. by Ms. Archana Pandey Mittal, Authorized DepartmentalRepresentative (Jt. CDR)

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

Final Order NO. 725/68-SM(BR)/Dated:13.3.2008

Per P.K. Das:

The appellant filed this appeal against denial of credit on Welding Electrodes, Shapes & Sections, H.R. Coils, Iron & Steel products and other packing materials.

2. After hearing both the sides and on perusal of the records, I find that the Larger Bench of the Tribunal in the case of Triveni Engineering Vs. CCE reported in 2005 (186) ELT 158 (T-D) disallowed the credit on Welding Electrodes. Regarding denial of credit on Iron & Steel products, the Commissioner (Appeals) observed that these items were being fitted into the capital goods. It has further been observed that these items were raw materials of the capital goods. The Tribunal in the case of Jubilant Organosys Limited Vs. CCE, Meerut-II reported in 2007 (215) ELT 92 (Tribunal-Delhi) held that credit cannot be denied on the ground that the goods in question are raw materials of capital goods. So, the denial of credit on Iron & Steel products are not justified. Regarding the packing materials, it is seen from the impugned order that these items were used for perfect machines of valve assembling with pipe lines as jointing kit to prevent leakage at joint, valve and pipe lines and pipe lines used to handle the extracted juice from one mill to another. The Tribunal in the case of

Commissioner of Central Excise, Jaipur Vs. Aditya Cement reported in 2007 (213) ELT 304 (T-D) allowed credit on packing materials used for sealing of joints by providing packing at various joints in plant and machinery. So, the denial of credit on these items is not proper.

3. In view of the above, the denial of credit on Welding Electrodes is upheld and the denial of credit on Iron & Steel products and packing materials are set aside. It is seen that the denial of credit on Welding Electrodes is settled by the Larger Bench of the Tribunal and, therefore, the imposition of penalty is not warranted. Accordingly, the penalty is set aside. The appeal is disposed of in the above terms.

Order dictated & pronounced in open court on 13.3.2008.

(P.K. Das)
Member (Judicial)

Ckp.