TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

(5)

REGISTERED / AD
Email : delhi@cestat.gov.in

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/1892/2006 –SM[BR] WITH CO /150, 155 /2006-SM[BR] Date 14/05/2008

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

To :
C.C.E ALLAHABAD
38,M.G.MARG, CIVIL LINES, ALLAHABAD

C.C.E ALLAHABAD Appellant
Vs
M/S K.M.SUGAR MILLS P LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 759 /2008 –SM[BR] Dated 7.5.2008 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
M/S K.M.SUGAR MILLS P LTD.
MOTINAGAR FAIZABAD,(UP)
2. Adv. / Consult SHRI S.P.OJHA CON.
299, Baghambari Housing scheme.
Allahapur, Allahabad (U.P)
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)

(6)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R.K.Puram, New Delhi-110066.
Principal Bench, New Delhi.

E/1892/06-SM with CO/150,155/06-SM

[Arising out of Order-in-Appeal No.19-CE/Alld/06 dt.23.2.06 passed by the Commissioner(Appeals), Allahabad)

For approval and signature:

Hon'ble Mr. S.S. KANG, VICE PRESIDENT

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 would 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 : Department Authorities:

CCE, Allahabad Appellant

Versus

M/s. K.M.Sugar Mills Pvt. Ltd. Respondent

Appearance

Sh. A.K.Rastogi, Authorised Representative(DR) For Appellant

Shri S.P.Ojha, Consultant for Respondent

Coram: Hon'ble Mr. S.S. KANG, VICE PRESIDENT

Date of decision: 7.5.08

Final Order No. 759/08-SM(BR)

Per S.S.Kang:

Heard both sides. The revenue filed this appeal against the order-in-appeal passed by Commissioner(Appeals) whereby Commissioner(Appeals) after relying upon the earlier decision of the Tribunal allowed the appeal filed by the respondent. The Commissioner(Appeals) held that press mud is not excisable product. The only contention of the revenue is that against the earlier order passed by the Tribunal the appeal is pending in the Hon'ble

Supreme Court. The revenue had not produced any order passed by the Hon'ble Court staying the operation of the Tribunal's order. In view of the earlier order passed by the Tribunal on the same issue, I do not find any infirmity in the impugned order, the appeal is dismissed. The Cross Objections are also disposed of on the same terms.

Order dictated in the open Court.

(S.S.Kang)
Vice President

km