EGRAM : CEGCANAL
: www.cestat.gov.in

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/3060/2006-SM[BR] Date 14/05/2008

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

To :
OSWAL OVERSEAS LTD.
NAWABGANJ (DISTT BAREILLY)

OSWAL OVERSEAS LTD. Appellant
Vs
C.C.E. MEERUT-II Respondent

I am directed to transmit herewith a certified copy of **Final order No 76 9 /2008-SM[BR]**. dated 24.4.2008

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 SHAHEED PARK, NEAR ASHOK KI LAT, DELHI ROAD, MEERUT-II
2. Adv. / Consult
MR.KAPIL VAISH
B-51, BUTLER PLAZA, 95, CIVIL LINES, BAREILLY.
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.3060 of 2006

[Arising out of Order-in-Appeal No.116-CE/MRT-II/2006 dated 26.05.2006 passed by the Commissioner (Appeals), Central Excise & Customs, Meerut]

Date of Hearing/Decision:24.4.2008

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. Oswal Overseas ....Appellant
[Rep. by Shri Kapil Vaish, C.A.]

Vs.

CCE, Meerut-II .....Respondent
[Rep. by Mr. B.S. Suhag, Authorized Departmental Representative (DR)]

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

Final **ORDER NO. 769/08-SM(BR)/Dated:.24.4.2008**
Per P.K. Das:

The Appellant filed this appeal against denial of Credit on Welding Electrodes & Asbestos Jointing Sheets.

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 Jaypee Rewa Plant Vs. CCE, Raipur reported in 2003 (159) ELT 553 held that Welding Electrode is not admissible for Credit.

3. Ld. Advocate relied upon the decision of the Hon'ble Rajasthan High Court in the case of Shri Neer Cement, wherein Revenue appeal was rejected.

4. I find that the Tribunal in the case of J.K. Cement Vs. CCE, Jaipur reported in 2007 (217) ELT 235 considering the Rajasthan High Court's decision, disallowed the Credit on Welding Electrodes. So, the denial of Credit on Welding Electrodes is justified.

5. It is seen from the impugned order that the Asbestos Jointing Sheets were used with various equipments and were also used in insulation process and to seal leakage tubes and pipes installed in the factory. The Tribunal in the case of KCP Sugar and Industries Ltd. Vs. CCE reported in 2004 (62) RLT 764 (CESTAT-Ban.) and in the case of J.K. Sugar Ltd. Vs. CCE, Meerut-II vide Final Order No.1811-1812/2007-SM (BR) dated 14.12.2007 held that Asbestos Packing/compressed fibres used for the purpose of preventing leakage in the pipes for transferring cane juice in the processing plant in sugar mill are eligible for Cenvat Credit.

6. In view of the above, the denial of Credit on Welding Electrodes is upheld and denial of Credit on Asbestos Jointing Sheets is

set aside. The denial of Credit on Welding Electrodes is settled by the Larger Bench of the Tribunal and, therefore, the 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 24.4.2008.

(P. K. Das)
Member (Judicial)

Ckp.