

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/1655/2007 – SM [BR]

Date 18/03/2009

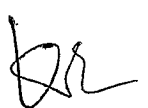
Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S U.P. STATE SUGAR CORPORATION LTD.
BIJNOR 246701
M/S U.P. STATE SUGAR CORPORATION LTD.

C.C.E. MEERUT I

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 214 / 2009 –SM[BR] dated 11.3.2009
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 I

EXCISE CHOWK, UNIVERSITY ROAD, MANGAL PANDEY NAGAR, MEERUT - 250005.

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 - 3

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 Puniabi Bagh, New Delhi - 110026

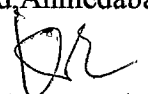
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagarava Road, T. Nagar, Chennai

13 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kunj, New Delhi - 110070

14 Easy Service Tax Online Dot Com Pvt.Ltd.407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-1

15 Office Copy

16 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.I**

Excise Appeal No. 1655 of 2007

[Arising out of order-in-appeal No. 59-CE/MRT-I/2007 dated 21.3.2007 passed by the Commissioner (Appeals), Central Excise, Meerut-I]

Date of Hearing/Decision : 06.02.2009

For approval and signature:

Hon'ble Ms. Jyoti Balasundaram, 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.	No
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?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	yes

M/s U.P. State Sugar Corporation Limited

Appellant
[Rep. by Mr. Atul Gupta, Advocate]

Versus

CCE, Meerut-I

Respondent
[Rep. by Mr. S. Gautam, DR]

CORAM: Hon'ble Ms. Jyoti Balasundaram, Vice-President

Final Order No. 214 / 09-SM (DR)

Per Jyoti Balasundaram:

In this case, total credit disallowed on ~~welding electrodes~~ is Rs. 2,12,044/-.
Credit of Rs. 1,78,394/- stands disallowed on welding electrodes and Rs.33,650/- stands disallowed on tubes. Penalty of Rs. 50,000/- has been imposed by Commissioner (Appeals), reducing the penalty from Rs. 4,84,722/- as imposed by the adjudicating authority.

2. I have heard both sides. Credit on welding electrodes is allowed to the appellant in the light of decision of the Rajasthan Hon'ble High Court in Hindustan Zinc Limited vs. Union of India -2008 (87) RLT 563 (Raj.) which has been followed by the Tribunal in Kisan Cooperative Sugar Factory Limited vs. CCE, Meerut-I -2009 (90) RLT 17 (CESTAT-Del.). Hence, I set aside denial of credit of Rs. 1,78,394/-.

3. As regards credit taken on tubes, since the appellant have not furnished the specific use of the item in question at any stage before the authority or even before the Tribunal in the appeal, I upheld denial of credit on this item. Since the total credit denial which has been upheld is Rs. 33,650/-, I reduce penalty to Rs. 250,000/-.

4. The appeal is thus partly allowed as above.

[Dictated and pronounced in the open Court]

[Jyoti Balasundaram]
- Vice President

[Pant]