

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/621 /2007 – SM[BR]

Date 11/02/2009

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

To :
C.C.E. LUCKNOW
7-A, ASHOK MARG, LUCKNOW
C.C.E. LUCKNOW

M/S CHHATA SUGAR CO. LTD.

Appellant

Vs

Respondent

I am directed to transmit herewith a certified copy of **Final order No. 155 / 2009- SM[BR]** dated 6.2.2009
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 CHHATA SUGAR CO. LTD.

CHHATA, MATHURA (U.P.)

2. Adv. / Consult SHRIBIPIN GARG ADV

B-1/1289-A, VASANT KUNJ NEW DELHI-70.

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 Punjabi Bagh, New Delhi - 110026

12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thvagaraya 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)

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH – COURT NO. 1

Excise Appeal No. 621 of 2007-SM

(Arising out of Order-in-Appeal No. 170-CE/Lko/06 dated 30.11.2006 passed by the Commissioner of Customs & Central Excise (Appeals), Lucknow).

DATE OF HEARING : 05.02.2009

DATE OF DECISION : 05.02.2009

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

CCE, Lucknow

... **Appellant**
(Rep by Sh. Sansar Chand, DR)

versus

M/s Chhata Sugar Co. Ltd.

... **Respondent**
(Rep. by Sh. Atul Gupta, CA)

**CORAM : HON'BLE MS. JYOTI BALASUNDARAM, VICE-
PRESIDENT**

Final ORDER NO. 155/09-SM (DR)

PER JYOTI BALASUNDARAM :

The issue in dispute in the present appeal relates to admissibility of credit sought to be denied on the ground that part of the inputs used in the manufacture of sugar were ~~not~~ contained in Bagasse, ^{or waste} which arose during the manufacture of final products.

2. I have heard both sides. I note that this issue is no longer *res integra* as it stands settled in favour of the assessee by the decision of the Tribunal in **CCE, Meerut-I vs Shakumbari Sugar & Allied Industries Ltd.**, 2004 (176) ELT 819 (T), which decision has been upheld by the Apex Court as seen from the dismissal of the Revenue's appeal by the Apex Court reported in 2005 (189) ELT A62 (SC). Although the learned DR relies upon the fact that the appeal of the Revenue in the case of **Commissioner vs Star Paper Mills Ltd.** has been admitted by the Apex Court as seen from 2004 (171) ELT A180 (SC), I find that the Tribunal's order against which appeal was preferred and admitted by the Hon'ble Supreme Court related to sludge/residual waste arising during the manufacture of paper, while the case of **Shakumbari Sugar & Allied Industries Ltd.** (supra) is directly on the issue in dispute in the present case. Following the ratio of the decision in **Shakumbari Sugar & Allied Industries Ltd.** (supra), I uphold the impugned order extending credit and reject the appeal.

(Dictated and pronounced in the open Court on the 5TH day of February, 2009)

**(JYOTI BALASUNDARAM)
VICE-PRESIDENT**