

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/962 /2007 – SM [BR]

Date 16/02/2009

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

To :
C.C.E. LUDHIANA

CENTRAL EXCISE HOUSE, 'F' BLOCK, RISHI NAGAR,
LUDHIANA 141001 (PUNJAB)
C.C.E. LUDHIANA

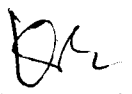
Appellant

Vs
Respondent

M/S MAHAVIR DYEING HOUSE.

I am directed to transmit herewith a certified copy of **Final order No. 176 / 2009– SM[BR]** dated 10.2.2009

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 MAHAVIR DYEING HOUSE.

TAJPUR ROAD, LUDHIANA

2. Adv. / Consult SHRI VIKRANT KACKRIA ADV.
H.NO.5, SECTOR 10 –A, CHANDIGARH

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

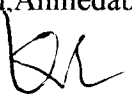
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thvagarava Road, T. Nagar, Chennai

13 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kuni, 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,

West Block No.2, R.K.Puram, New Delhi

COURT-III

Date of hearing/decision: 10.2.2009

Central Excise Appeal No.962 of 2007

Arising out of the order in appeal No.140/CE/LDH/06 dated 29.12.2006 passed by the Commissioner (Appeals), Customs & Central Excise, Jalandhar, Chandigarh.

For Approval and Signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)

1	Whether Press Reporter 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 CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
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

Appellant

Respondent

C.C.E., Ludhiana

vs.

M/s Mahavir dyeing House

Appearance:

Shri Sansar Chand, Authorized Departmental Representative (DR) for the Revenue and Shri Vikrant Kacuria, Advocate for the respondent

Coram: Hon'ble Mr. M. Veeraiyan, Member (Technical)

Final Order No. 176/09-SM (BR)

Per M. Veeraiyan:

This is a Departmental appeal against the order of the Commissioner (Appeals) No.140/CE/LDH/06 dated 29.12.2006 by which the Commissioner (Appeals) upheld the order of the original

authority dated 16.8.05 dropping the proceedings on the show cause notice issued against the respondents.

2. Heard both sides.

3. The respondents are into dyeing of acrylic yarn. The officers of Central Excise visited the factory premises of the respondents and two other godowns situated elsewhere but belonging to the respondents and did verification of stock of raw materials which indicated that the total stock available in three premises was in excess of what was mentioned in the form IV register meant for raw materials. Show cause notice was issued proposing confiscation of excess found raw materials and proposing penalty. The original authority taking note of the fact that godowns were at different places, no credit has been taken in respect of excess found raw materials, finding no discrepancy in the finished goods dropped the proceedings. The original authority also held that Rule 25 was not applicable in the facts of the present case. The Commissioner (Appeals) has upheld the said findings.

4. It has not been disputed that there were three premises in which raw materials have been stored. The respondent has submitted that in addition to undertaking of dyeing of acrylic yarn, they were also into trading ^{of} ~~activity~~ raw materials. It is a case where both the original authority and the Commissioner (Appeals) have concurrently held that the charges in show cause notice were not proved. The basis for holding that the raw materials found in the premises other than the factory premises are also to be reflected in the register is not revealed. It is also not being disputed that the respondent was into trading of raw materials. There is no requirement that the raw materials found in other premises should have been entered in the form IV register of the manufacturing unit. This

● appeal has been filed against the concurrent ^{and} favourable ~~and~~ finding of the original authority and the Commissioner (Appeals). No valid grounds have been adduced to interfere with the findings of the Commissioner (Appeals).

5. Appeal by the Department is rejected.

(Dictated and pronounced in the open Court)

(M. Veeraiyan)
Member (Technical)

scd/