

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/5676/2004 - EX[DB]

Date 06/04/2009

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

To :
C.C.E. LUDHIANA
F BLOCK, RISHI NAGAR, LUDHIANA
C.C.E. LUDHIANA

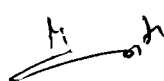
Appellant
Vs
Respondent

M/S ABHISHEK INDS. LTD. (TERRY TOWEL
DIVISION)

2009 EX[DB] dated 30.3.2009

I am directed to transmit herewith a certified copy of **Final order No. 255**

passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(Excise Appeal Branch)

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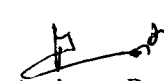
1. Respondent

M/S ABHISHEK INDS. LTD. (TERRY TOWEL DIVISION)

VILL.-DHAULA BARNALA (PUNJAB)

2. Adv. / Consult

- 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 Kuni, New Delhi - 110070
- 14 Easy Service Tax Online Dot Com Pvt.Ltd.407A.Iscon Mall.Above Star India Bazar,Satellite Road,Ahmedabad-15
- 15 LAWCRUX Advisors (P) Ltd, Law House,1-8,Sector - 10, Faridabad 121003 (Haryana)
- 16 Office Copy
- 17 Guard file


Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

COURT NO. II

Excise Appeal No. 5676 of 2004-Ex.

(Arising out of Order-in-Appeal No. 603/CE/APPL/LDH/04 dated 31.8.04 passed by the Commissioner (Appeals), Central Excise, Ludhiana)

CCE, Ludhiana

Appellant

Vs.

M/s Abhishek Industries Ltd.

Respondent

Appeared for Appellant : Shri S.N. Srivastav, DR

Appeared for Respondent : Shri Sanjay Malhotra, Rep.

Date of Hearing: 26.3.2009

CORAM: HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER
HON'BLE MR. RAKESH KUMAR, TECHNICAL MEMBER

FINAL Order No. 255/09-EX dated.....

Per D.N. Panda :

Shri Sanjay Malhtora, authorised representative for the Respondent preliminary submits that the board has a consistent view that AED (T&TA) does not diminished even if the assessee operate under DEPB scheme. The circular issued vide No. 701/17/2003-CX. dated 12.3.03 is also followed while issuing a letter bearing No. 267/11/2003-CX.8 dated 22.3.2007. Therefore

his prayer is that when there is a consistent view by the Board itself, the Commissioner has not made an error in passing the order.

2. The above preliminary order is assailed by the Id. DR submitting that tax refund cannot be allowed but credit is admissible.

3. Heard both sides and perused the record.

4. When Id. DR argues that tax refund is not allowed but credit is admissible, it appears he subscribes ^{to the} view of the Id. Commissioner (Appeals). Ld. Commissioner (Appeals) by his order has not allowed the refund but has conceived the right to utilisation of unutilised credit which is subject matter of scrutiny of the Revenue. In view of the observation made by the Id. Commissioner which appeared to be in consistent with the board's decision, there is no room left to interfere ^{to} his order to disturb. Accordingly Revenue's appeal fails

(Dictated & pronounced in open Court)

(D.N. PANDA)
JUDICIAL MEMBER

(RAKESH KUMAR)
TECHNICAL MEMBER

RM