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

Appeal No. E/3646/2005 - EX[DB] Date 12/05/2009

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

To :
C.C.E. INDORE
MANIK BAGH PALACE, POST BOX NO. 10, INDORE
452001 (M.P.)
C.C.E. INDORE Appellant
Vs
M/S RANBAXY LABORATORIES LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 309/2009-**EX[DB]** 8-4-09

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

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
   M/S RANBAXY LABORATORIES LTD.
   DEWAS M.P.
2. Adv. / Consult SH. B.L. NARASIMHAN, ADV.,
   B-6/10, S.J. ENCLAVE,
   N. DELHI-29
3. C.D.R
4. ~~J.C.D.R.~~
5. Bar association, CESTAT, New Delhi
6. Director Publications, Customs, Excise. I.P. Estate, New Delhi
7. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8. Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9. Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10. M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)
11. M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
12. Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
13. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
14. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
15. LAWCRUX Advisors Pvt 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,

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

COURT-III

Date of hearing/decision:8.4.2009

Central Excise Appeal No.3646 of 2005

Arising out of the order in appeal No.IND-I/278/2005 dated 26.8.05 passed by the Commissioner (Appeals I), Customs, & Central Excise, Indore.

For Approval and Signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K. Das, Member (Judicial)

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?	NA
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.& C.E., Indore	vs.	M/s Ranbaxy Laboratories Ltd.

Appearance:

Shri A.K. Rastogi, Authorized Departmental Representative (DR) for the Revenue and Shri B.L. Narasimhan, Advocate for the respondent

Coram: Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K. Das, Member (Judicial)

Final Oral Order No. 309/09-EX

Per P.K. Das:

Heard both sides and perused record.

2. The appellants are engaged in the manufacture of medicaments. The issue involved in this case is as to whether the refund claim filed by the respondents with reference to Cenvat credit reversed by them on the finished goods which were allowed to be destroyed after remitting duty payable on such goods. The original authority rejected the refund claim,

Commissioner (Appeals) allowed the refund claim and it was directed the respondents to re-credit the amount in their RG-23A part II account. Learned DR relied upon the Board Circular No.800/33/2004-CX, dated 1st October 2004. The learned Advocate relied upon the decision of the Larger Bench of the Tribunal in the case of Grasim Industries vs. C.C.E., Indore – 2007 (208) ELT 336 (Tri- LB). The relevant portion of the Larger Bench decision is reproduced below:

> ***"7. We find that reading of Rule 49 of Central Excise Rules, 1944 and Rule 21 of Central Excise Rules, 2002 which provides for remission of duty in respect of goods lost or destroyed by natural cause or by unavoidable accidents or in case goods become unfit for consumption or for marketing at any time before removal does not provide reversal of credit in respect of inputs used in the manufacture of such goods. The Modvat rules prohibits the credit of duty paid in respect of the inputs which are used in the manufacture of exempted goods or which are chargeable to nil rate of duty. The Tribunal in both the cases, that is Mafatlal Industries (supra) and in the case of Inalsa Ltd. (supra) held that in case the goods were destroyed due to natural cause or by unavoidable accident during handling or storage, cannot be equated with exemption to goods and the inputs can be considered to have been put to intended use for manufacture of the final product. Reading of rules under which remission is granted in respect of goods which were lost or destroyed by natural cause or by natural accident, does not provide any condition regarding reversal of credit taken in respect of inputs used on such goods, hence we are unable to support the view taken in the case of Mafatlal Industries (supra) whereby it has been held that assessee has to reverse the credit taken of inputs used in such goods on which remission is granted. Therefore, we approve the view of the Tribunal taken in the case of Inalsa Ltd. (supra) in this regard. The issue to the Larger Bench is answered in the above terms and the matter be placed before the Regular Bench."***

3. In view of the decision of the Larger Bench it is held that credit not to be reversed when remission granted on final product destroyed in fire or accident. Hence, we do not find any reason to interfere with the order of the Commissioner (Appeals). Accordingly, appeal filed by the Revenue is rejected.

(M. Veeraiyan)
Member (Technical)

(P.K. Das)
Member (Judicial)

scd/