

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

Appeal No. E/1045/2005 - EX[DB]

Date 12/04/2010

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

To :
M/S SAF YEAST COMPANY PVT LTD
SANDILA UNITS, UPSIDC, INDUSTRIAL AREA,
SANDILA, DISTT. HORDOI (UP) -241204
M/S SAF YEAST COMPANY PVT LTD

Appellant

Vs
Respondent

C.C.E. LUCKNOW

2010 EX[DB] dated 09-4-10

I am directed to transmit herewith a certified copy of Final order No. 167/
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

C.C.E. LUCKNOW

7-A, ASHOK MARG, LUCKNOW.

2. Adv. / Consult

SH. DURGESH NADKARNI, ADV.,
12-14, DR. SUNDARLAL B. MARG,
(40A STREET) NEXT TO REX CHAMBERS,
BALLARD ESTATE, MUMBAI-400038

3 C.D.R

~~J.C.D.R.~~

5 Bar association, CESTAT, New Delhi

6 Director Publications, Customs, Excise. I.P. Estate, New Delhi

7 M/s Centax Publications 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 (Harvana)

16 Office Copy

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Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

COURT NO. II

Excise Appeal No. 1045 of 2005

(Arising out of Order-in-Appeal No. 462/CE/2004 dated 17.12.2004
passed by the Commissioner of Customs, Central Excise & Service
Tax (Appeals), Lucknow)

M/s Saf Yeast Company P. Ltd.

Appellant

Vs.

CCE, Lucknow

Respondent

Date of Hearing: 31.3.2010

Appearance :

Appeared for Appellant - Shri Durgesh Nadkarni, Advocate
Appeared for Respondent - Shri R.K. Verma, DR

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

FINAL Order No.....167/2010 EX.....dated.....

Per D.N. Panda:

Both sides are fully agreeable for retesting of the materials by
Id. Adjudicating authority to do justice to both the sides. Id.
Counsel appearing for the appellant submits that when scope of
show cause notice was widened by the corrigendum issued before
passing of the adjudication order, Id. Appellate authority should

have also taken into consideration the pleading that emerged against the allegation made in the corrigendum. Piecemeal consideration of evidence having been made by the first appellate authority, the appellant has been prejudiced. Therefore if the appellant gets proper opportunity of placing entire factual and legal pleadings before Adjudicating authority and that Authority considers all such materials, there may not be denial of justice.

2. To the aforesaid proposition of the appellant, Revenue does not disagree.

3. Having noticed that both the sides are cooperative, we consider it proper to send the matter back to the Id. Adjudicating authority to consider entire factual and legal pleadings of the appellant and take into consideration all evidence that shall be adduced and explained against the charges made in original show cause notice and corrigendum already issued. We make it clear that the Id. Counsel for the appellant having pleaded time bar, such a valuable pleading cannot be ignored.

4. In view of the aforesaid observations and conclusion, we direct the appellant to cause appearance before the Id. Adjudicating authority on **26th April 2010** with entire set of evidence and pleadings that shall be advanced on behalf of the appellant. If the appellant fails to cause appearance, Id. Adjudicating authority shall be at liberty to decide the matter afresh taking materials on record

and pass reasoned and speaking order. Consequently both the orders of the authorities below are set aside and the matter gets remanded to Id. Adjudicating authority.

(Dictated & pronounced in open Court)

(D.N. PANDA)
JUDICIAL MEMBER

(RAKESH KUMAR)
TECHNICAL MEMBER

RM