

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/125 /2008 – SM[BR] E / CO / 201 / 2008 –SM[BR]

Date 11/01/2010

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

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

Appellant

Vs
Respondent

M/S KISAN SAHKARI CHINI MILLS LTD.,
SULTANPUR

I am directed to transmit herewith a certified copy of Final order No. 39 / 2010 –SM[BR] dated 6.1.2010
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 KISAN SAHKARI CHINI MILLS LTD., SULTANPUR

VILLAGE-BASAURI, P.O.-KNI SULTANPUR, DIST-SULTANPUR, UP

2. Adv. / Consult

NONE;-----

3 S.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 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

17 Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
SINGLE MEMBER BENCH

Excise Appeal No.125 of 2008
Excise Cross Objection No. 201 of 2008

(Arising out of Order-in-Appeal No.126/CE/LKO/07 dated 16.10.2007
passed by the Commissioner of Central Excise (Appeals), Lucknow)

Date of Hearing: 16.12.2009
Date of Decision: 16.12.2009

CCE, Lucknow

Appellant

Vs.

M/s.Kisan Sahkari Chinni Mills Ltd.

Respondent

Present for the Appellant: Shri I.Baig, SDR
Present for the Respondent: None

Coram: Hon'ble Mr. D.N.Panda, Judicial Member

final **ORDER NO.** 39/2010 *sm(B)*

PER: D.N.PANDA

None present for the respondents. Revenue has come up against dismissal of appeal by Id. appellate authority on the ground that his predecessor appellate authority had disposed off appeal of assessee vide Order-in-Appeal No.18-CE/LKO/2007 dated 21.02.2007 rejecting the same. It is pertinent that Revenue's appeal before him did not receive his attention on that date for the reason best known to Revenue.

2. Appellate Order dated 16.10.2007 brings out clear fact that assessee's appeal was first disposed off on 16.10.2007. By that time probably Revenue had not filed its appeal before the learned

first appellate authority. Revenue sought appeal remedy before him on 14.5.2007^{which is} nearly three months after the disposal of the assessee's appeal as above.

3. Aforesaid position shows that there is laxity by Revenue to pursue its remedy expeditiously before learned first Appellate Authority when they were aggrieved. Ld. Commissioner (Appeals) was helpless to come to rescue of Revenue when Revenue's appeal was not on his record while disposing assessee's appeal. It would be proper for Revenue to be conscious when notice of appeal is *served* on it by first Appellate Authority.

4. In the result, appeal of Revenue is dismissed and cross objection disposed off.

(D.N.PANDA)
JUDICIAL MEMBER

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