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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/2824/2009 – SM[BR]** Date **26/07/2011**

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

To :
C.C.E. KANPUR
117/7, SARVODAYA NAGAR, KANPUR 208005.

C.C.E. KANPUR Appellant

Vs

M/S VACMET PACKAGING (INDIA) PVT LTD Respondent

I am directed to transmit herewith a certified copy of **Final order No. 428 / 2011-SM[BR]** dated 20.7.2011 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 VACMET PACKAGING (INDIA) PVT LTD
B-5, INDUSTRIAL AREA,
SIKANDRA AGRA.

2. Adv. / Consult SHRI K.K. ANAND ADV.
A-103, DEFENCE COLONY, NEW DELHI-24.

3. C.D.R
4. Bar association. CESTAT. New Delhi
5. Director Publications. Customs. Excise. I.P. Estate. New
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. Taxmann Allied Service Pvt Ltd.. 59/32. New Rohtak Road. New Delhi -
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

COURT-I

Date of hearing/decision:20.07 .2011

Central Excise Appeal No.2824 of 2009-SM

Arising out of the order in appeal No.132-CE/APPL/KNP/2009 dated 22.9.2009 passed by the Commissioner (Appeals) , Customs & Central Excise, Kanpur.

For Approval and Signature:

Hon'ble Dr. Chittaranjan Satapathy, Technical Member

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 26 of the CESTAT (Procedure) Rules, 1982?	yes
2	Whether it should be released under Rule 26 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

C.C.& C.Ex., Kanpur .. Appellant

Vs.

Vacmet Packaging (India) Pvt. Ltd. .... Respondent

Appearance:

Shri Anil Khanna, Authorized Departmental Representative (DR) for the Revenue
Shri Saurabh Yadav, Advocate for the respondents.

Coram: Hon'ble Dr. Chittaranjan Satapathy, Technical Member

Final Oral Order No. 428/2011 SM (BR)

Per Dr. C. Satapathy:

Heard both sides.

2. The issue involved in this case is whether input credit is required to be reversed when the final product is destroyed in fire. The

lower appellate authority has decided the issue against the Revenue following 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). This appeal has been preferred by the Department on the ground that the Larger Bench decision cited above has been appealed against. However, the said decision is neither stayed nor reversed as yet. On the contrary, the said decision has been approved by the Hon'ble Gujarat High Court in the case of C.C.Ex. & Customs, vs. Biopack India Corporation Ltd. - 2010 (258) ELT 56 (Guj.). Learned DR also states that the period involved in this case is prior to the amendment of the relevant Rules, specifically disallowing the credit in such case. Under the circumstances, the decision of the lower appellate authority does not require any interference. The Department's appeal is rejected.

(Dr. C. Satapathy)
Technical Member

scd/