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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/1059/2008 – SM[BR]** Date **16/08/2011**

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

To :
U.P.STATE SUGAR & CANE DEVELOPMENT
CORPORATION LTD
PIPRAICH,DISSTT.GORAKHPUR (UTTAR PRADESH)

U.P.STATE SUGAR & CANE DEVELOPMENT CORPORATION LTD Appellant

Vs

C.C.E ALLAHABAD Respondent

I am directed to transmit herewith a certified copy of **Final order No.465 / 2011 –SM[BR]** dated 3.8.2011 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
C.C.E ALLAHABAD
38,M.G.MARG, CIVIL LINES,
ALLAHABAD

2. Adv. / Consult
MR.BIPIN GARG
B-1/1289,A-VASANT KUNJ, NEW DELHI

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)

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

Excise Appeal No. E/1059/08-SM

[Arising out of Order-in-Appeal No.18 & 19-CE/ALLD/2008 dated 29.01.2008 passed by the Commissioner (Appeals), Allahabad].

M/s. U.P. State Sugar & Cane Development ...Appellant

Vs.

CCE, Allahabad ... Respondent

Present for the Appellant : Shri Bipin Garg, Advocate &
Shri Mayank Garg, Advocate
Present for the Respondent: Ms. Renu Jagdav, SDR

Coram: HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER

Date of Hearing/Decision:03.08.2011

Final **ORDER NO.** 465/2011 SM (Br) **DATED:**________

PER: D.N.PANDA

While Rule 21 of Central Excise Rules 2002 has the object of recording satisfaction which should be objective but not subjective, Nothing comes out from appellate order to show that the satisfaction or dissatisfaction had been recorded any where.

2. Ld. Counsel mentions that loss of molasses which arose out of natural causes was intimated to the authority by letter dated 5.10.2000 and that remained undisputed. Such a letter was received by the authority on 9.10.2000. This comes out from show cause notice dated 27.9.01. He further submits that the remission was sought explaining reason for remission and reasons of loss. The appellant made application when it arrived at the loss making an examination of the tank on 4.10.2000.

3. When the averments are as above, the submission of Revenue is that there is a Board Circular to allow only losses if that arose out of certain events.

4. Hearing both sides on the contentions and also noticing that no satisfaction had been recorded, the matter has to go back to the Original Authority to examine the entire record available before him, with reference to the allegation in the show cause notice and also reasons of losses explained by the appellant by letter dated 5.10.2000. If the authority is satisfied that the loss arrived was for the reasons recognised by Rule 21 and not attributed to any cause of the appellant, the appellant should get appropriate consideration. The authority while considering the remission application should record objective findings and also objective satisfaction without making any

subjective assertions of the matters. He shall record reasons for his decision and order should be self-speaking of the manner of examination done by him. Consequently appeal is disposed with aforesaid observations and decision.

[Dictated & Pronounced in the open Court].

(D.N.PANDA)
JUDICIAL MEMBER

Anita