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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/1315/2011 – SM[BR] E / STAY / 1687/2011-SM[BR] **Date 18/10/2011**

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

To :
M/S THE OUDH SUGAR MILLS LTD.
HARGAON, DISTT. SITAPUR (U.P.)

M/S THE OUDH SUGAR MILLS LTD., Appellant

Vs

C.C.E. LUCKNOW Respondent

I am directed to transmit herewith a certified copy of **Final order No. 706/2011-SM[BR]&S/620/2011** dated 30.9.2011 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. LUCKNOW
7-A, ASHOK MARG, LUCKNOW.

2. Adv. / Consult
MR.RAJESH CHHIBBER
FA/9, NEW KAVI NAGAR, GHAZIABAD

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-II

E/Stay/1687/2011-SM in and
Central Excise appeal No. 1315/2011-SM

(Arising out of Order-in-Appeal No. 93-CE/LKO/2011 dated 24.03.2011 passed by the Commissioner (Appeals), Central Excise, Lucknow)

Date of hearing/decision: 30th September, 2011

M/s. The Oudh Sugar Mills Ltd., Appellant

Versus

CCE, Lucknow Respondent

Presence:
Shri Rajesh Chhibber, Advocate for the appellant;
Shri Fateh Singh, SDR for the Revenue

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

FINAL ORDER NO. 706/2011 SM (BR) + **DATED**

Per D.N. PANDA: S-620/2011 SM (BR)

Shri Rajesh Chhibber, learned Counsel argueS that on 28.9.2011 this Bench has taken a view in the case of Bajaj Hindustan in appeal No. E/1518/11 that the extended meaning of input under Rule 2(l) of Cenvat Credit Rules, 2004, in respect of commission paid for promotion of marketing entitles service tax paid on commission agency service to be set off against excise duty liability. The view of the Tribunal is also supported by Circular No. 943/04/11 dated 29.4.2011. Following the same decision, this appellant also deserves appropriate relief in its appeal waiving requirement of pre-deposit.

2. Learned D.R. supports the order of first appellate authority but does not submit any other different proposition than what was submitted by the learned Counsel.

3. Following the judicial discipline waiving requirement of pre-deposit, appeal of the appellant is also allowed when the factual matrix of this case is not disputed to be different by Revenue as has been decided in Bajaj Hindustan Ltd. in appeal No. E/1518/11. Consequently, both stay application as well as appeal are disposed.

(Dictated & pronounced in the Open Court.)

(D.N. PANDA)
JUDICIAL MEMBER

RK