

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/231/2008 – SM[BR] AND E / 234 / 2008 –SM[BR] WITH CO/ 261/2008

Date 06/01/2010

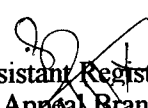
Assistant Registrar
C.E.S.T.A.T, New Delhi

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

Appellant
Vs
Respondent

M/S KAMLAPUR SUGAR & INDUSTRIES

I am directed to transmit herewith a certified copy of **Final order No. 11 - 12 / 2010-SM[BR]** dated 22.12.2009 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 KAMLAPUR SUGAR & INDUSTRIES
KAMLAPUR, SITAPUR (U.P.)
- [2] M/S GOBIND SUGAR MILLS LTD.
AIRA ESTATE , DISTT; LAKHIMPUR KHERI [U.P]
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 Kuni, 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)

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi**

COURT NO. IV

**Excise Appeal No. 231 of 2008 (SM) and
Excise Appeal No. 234 of 2008 (SM) with Cross Objection
Application No. 261 of 2008 (SM)**

[Arising out of the Order-in-Appeal No. 147-CE/LKO/2007 dated 31/10/2007 and Order-in-Appeal No. 142 & 143-CE/LKO/2007 dated 30/10/2007 both passed by The Commissioner (Appeals), Central Excise & Service Tax, Lucknow.]

For Approval and signature :

Hon'ble Shri Rakesh Kumar, Member (Technical)

1. Whether Press Reporters may be allowed to see :
the Order for publication as per Rule 27 of the
CESTAT (Procedure) Rules, 1982?
2. Whether it would be released under Rule 27 of :
the CESTAT (Procedure) Rules, 1982 for
publication in any authoritative report or not?
3. Whether their Lordships wish to see the fair :
copy of the order?
4. Whether order is to be circulated to the :
Department Authorities?

CCE, Lucknow

Appellant

Versus

M/s Kamlapur Sugar & Industries]
M/s Gobind Sugar Mills Ltd.]

Respondent

Appearance

Shri M.K. Rastogi, Authorised Representative (SDR) – for the Appellant

None – for the Respondent.

CORAM : Hon'ble Shri Rakesh Kumar, Member (Technical)

DATE OF HEARING : 22/12/2009.

Final Order No. 11-12/2010 *SM (BR)* Dated : _____

Per. Rakesh Kumar :-

None appeared for the respondent. Heard the learned Departmental Representative in both the appeals. The only issue involved in these appeals is as to whether Cenvat credit of duty on welding electrodes used for the maintenance and repairs of the sugar mill machinery is available to the respondent. Since this issue stands decided against the respondent by Division Bench's order in the case of **Vikram Cement vs. CCE, Indore** reported in **2009 (242) E.L.T. 545 (Tri. – Del.)**, the impugned orders, are not correct hence the same are set aside and the order-in-original are restored. The Department's appeals are allowed. The Cross Objection No.

E/CO/261 of 2008 (SM) in respect of appeal No. E/234 of 2008 (SM) is also dismissed.

(Dictated and pronounced in open court)

(Rakesh Kumar)
Member (Technical)

PK