

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/2487/2008 – SM[BR]

Date 18/10/2010

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

To :
M/S RUCHI SOYA INDUSTRIES LTD.
301, MAHAKOSH HOUSE, 7/5, SOUTH TUKOGANJ,
NATH MANDIR ROAD, INDORE-1 (M.P.)
M/S RUCHI SOYA INDUSTRIES LTD.

Appellant

Vs
Respondent

C.C.E. INDORE

I am directed to transmit herewith a certified copy of **Final order No. 1117 / 2010 –SM[BR]** dated 7.10.2010
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. INDORE

MANIK BAGH PALACE, POST BOX NO. 10, INDORE 452001 (M.P.)

2. Adv. / Consult SHRI R.C. CHAURE ADV.

M/S APPELLANTS:-----

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 Company Law Institute of India Pvt Ltd., No.2 (Old No. 36), Vaithyaram Street, T. Nagar, Chennai -17

9 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017

10 Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005

11 Easy Service Tax Online Dot Com Pvt.Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-15

12 LAWCRUX Advisors Pvt Ltd, LAW House, 1-8, Sector - 10, Faridabad 121003 (Harvana)

13 TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor, Vasant Arcade, Nelson Mandela Road, Vasant Kunj, New Delhi - 110070

14 Office Copy

15 Guard file


Assistant Registrar
(SM Appeal Branch)

**CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL,
West Block No. 2, R.K. Puram,
New Delhi**

COURT No. II

CENTRAL EXCISE APPEAL NO. 2487/08-SM

(Arising out of Order-in-Appeal No. IND-I/150/2008 dated 27.8.2008 passed by the Commissioner (Appeals-I), Central Excise & Service Tax, Indore)

M/s. Ruchi Soya Industries Ltd., Appellants
Reptd. by Shri R.C. Chaure, Advocate
Versus

CCE, Indore Respondent
Rept. By Shri R.K. Gupta, SDR

Date of Hearing/decision: 7th October, 2010

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

FINAL ORDER NO. 1117/2010 SM(Br)
DATED

Per D.N. Panda:

The dispute in this case is ^{as is} whether Sulphuric Acid used in Effluent Treatment Plant shall be eligible for Cenvat Credit claimed to be an essential input used in the course of manufacture.

2. Learned Counsel claimed that without use of Sulphuric Acid, plant cannot be brought to usable condition and in support of his contention he relied upon judgment of Hon'ble Supreme Court in the case of CCE vs. Eastend

Paper Industries Ltd., reported in 1989 (43) ELT 201 (S.C.) and a decision of Tribunal in the case of CCE, Nagpur vs. APR Packaging Ltd., reported in 2005 (191) ELT 395 (Tri. – Mumbai).

3. Learned D.R. supports the order of the authorities below.

4. Heard both sides and perused the record. It may not be ruled out that certain inputs are essential ingredients *and* normally used to maintain the plant for its use. Hon'ble Supreme Court has laid down the guidelines in the case of Maruti Suzuki as to manner how an input can be considered to be eligible for input credit. While passing the orders by both the authorities below they had no advantage of reading the judgment for which the applicant came to the Tribunal.

5. Noticing the aforesaid difficulty in adjudicating the matter, it is considered proper to send the matter back to the learned adjudicating authority to get report of the field staff about the use of Sulphuric Acid in question and examine the case in the light of the aforesaid judgment in the case of Maruti Suzuki (supra). It would be proper that the report be obtained ^{witnessing} trial run in the

process so that assessee may not have any further grievance.

6. For the reasons aforesaid the matter is remanded, setting aside both the orders, to the learned adjudicating authority to pass appropriate order granting fair opportunity of hearing to the appellants.

(Dictated & pronounced in the Open Court.)

(D.N. PANDA)
JUDICIAL MEMBER

RK