

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/1150/2010-1151/2010 - EX[DB] WITH
E/S/1211-1212/2010-EX

Date 21/09/2010

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

To :
SHRI OM PRAKASH SHYAMDASANI, PARTNER
M/S. SWATI BISCUIT MFG. CO. 54, GOVERNMENT
IND. ESTATE, NEAR UPTRON ESTATE, PANKI,
KANPUR-208022

SHRI OM PRAKASH SHYAMDASANI, PARTNER

Appellant

Vs

Respondent

C.C.E. KANPUR

STAY ORDER NO.634-35/2010-EX

I am directed to transmit herewith a certified copy of Final order No. 641-42/
2010 EX[DB] dated 01-9-10
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

C.C.E. KANPUR

117/7, SARVODAYA NAGAR, KANPUR 208005.

2. Adv. / Consult SH. R.K. MONGA, MANAGER
LID APPELLANT

3 C.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

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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

16. HON'BLE PRESIDENT

17. M/S. SWATI BISCUIT MFG. CO.

54, GOVERNMENT IND. ESTATE, NEAR UPTRON ESTATE,
PANKI KANPUR


Assistant Registrar
(Excise 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. I

DATE OF HEARING : 01/09/2010.
DATE OF DECISION : 01/09/2010.

**Excise Stay Application No. 1211 of 2010 in appeal No.
1150 of 2010**

M/s Swati Biscuit Mfg. Co.

Appellants

Versus

CCE, Kanpur

Respondent

**Excise Stay Application No. 1212 of 2010 in appeal No.
1151 of 2010**

Shri Om Prakash Shyamdasani
Partner of M/s Swati Biscuit Mfg. Co.

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Appellants

Versus

CCE, Kanpur

Respondent

Appearance

Shri R.K. Monga, Manager - for the Appellants.

Shri B.K. Singh, Authorized Representative (Jt. CDR) - for the
Respondent.

**CORAM : Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri Rakesh Kumar, Member (Technical)**

STAY Order No. 634-635/10 Dated : _____

Per. Shri Justice R.M.S. Khandeparkar :-

As we proposed to dispose of the appeals itself the
applications are allowed without insisting for pre-deposit in the

matter while directing the Registry to place the appeals for hearing forthwith. Applications stand disposed of.

(Justice R.M.S. Khandeparkar)
President

(Rakesh Kumar)
Member (Technical)

PK

**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. I

DATE OF HEARING : 01/09/2010.

DATE OF DECISION : 01/09/2010.

Excise appeal No. 1150 of 2010

M/s Swati Biscuit Mfg. Co.

Appellants

Versus

CCE, Kanpur

Respondent

Excise appeal No. 1151 of 2010

Shri Om Prakash Shyamdasani
Partner of M/s Swati Biscuit Mfg. Co.

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Appellants

Versus

CCE, Kanpur

Respondent

[Arising out of the Order-in-Appeal No. 110-111/CE/APPL/KNP/2010 dated 26/02/2010 passed by The Commissioner of Central Excise (Appeals), Customs & Central Excise, Kanpur.]

For Approval and signature :

Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri Rakesh Kumar, Member (Technical)

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|----|--|--------------|
| 1. | Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? | : <i>Yes</i> |
| 2. | Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? | : <i>No</i> |
| 3. | Whether their Lordships wish to see the fair copy of the order? | : <i>See</i> |
| 4. | Whether order is to be circulated to the Department Authorities? | : <i>Y</i> |
-

Appearance

Shri R.K. Monga, Manager – for the Appellants.

Shri B.K. Singh, Authorized Representative (Jt. CDR) – for the Respondent.

**CORAM : Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri Rakesh Kumar, Member (Technical)**

FINAL Order No. 641-642 / 10-20 Dated : _____

Per. Shri Justice R.M.S. Khandeparkar :-

Heard. Undisputedly the issue involved in these appeals relates to dutiability of sugar syrup which is intermediate product used in the manufacture of biscuits and similar issue had arisen in the matter of M/s K.N. Bakers Pvt. Ltd. vs. CCE, Kanpur in appeal No. E/1034-1036 of 2010 and in similar set of facts, the orders passed by the lower authority similar to the impugned order had been set aside taken into consideration the decisions of the Apex Court in the matter of **Hindustan Zinc Ltd. vs. CCE, Jaipur** reported in **2005 (181) E.L.T. 170 (S.C.)** and **M/s Moti Laminates – 1995 (76) E.L.T. 241 (S.C.)** as well as Board Circular No. 780/13/2004-CX dated 12th March 2004 and the matter had been remanded for reconsideration. Accordingly, the impugned order is liable to be set aside and matters herein to be remanded to be disposed of afresh alongwith the matters in K.N. Bakers Pvt. Ltd. case.

2. Accordingly, the appeals are allowed. The impugned orders are hereby set aside. Matters are remanded to the Adjudicating Authority for reconsideration of the issue in accordance with the observations made in the order passed in the appeal of M/s K.N. Bakers Pvt. Ltd. (supra), as in accordance with provisions of law, alongwith the matter in M/s K.N. Bakers Pvt. Ltd. Appeals stand disposed of, as above.

(Justice R.M.S. Khandeparkar)
President

(Rakesh Kumar)
Member (Technical)

PK