

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/123 /2009 – SM[BR] E/ CO/ 81/2010-SM[BR]

Date 16/11/2010

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

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

M/S SAF YEAST CO. (P) LTD.

Appellant

Vs
Respondent

I am directed to transmit herewith a certified copy of **Final order No. 1260 / 2010-SM[BR]** dated 2.11.2010
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 SAF YEAST CO. (P) LTD.

101, UPSIDC, INDUSTRIAL AREA, SANDILA, HARDOI.

2. Adv. / Consult D.H.NADKARNI ADV.

12-14, DR. SUNDERLAL B. MARG [GOA STREET]

NEXT TO REX CHAMBERS, BALLARD ESTATE MUMBAI-38.

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

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Assistant Registrar
(SM Appeal Branch)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III**

**Excise Appeal No. 123 of 2009-SM(BR)
Excise Cross Objection No. 81/2010-SM**

[Arising out of Order-in-Appeal No. 134-CE/LKO/ 2008 dated 31.10.2008
passed by the Commissioner of Central Excise & Service Tax, Lucknow]

For approval and signature:

Hon'ble Mr. Ashok Jindal, Member (Judicial)

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 should 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 :
Departmental authorities?
-

Commissioner of Central Excise
Lucknow

Appellants

Vs.

M/s. Saf Yeast Co.(P) Ltd .

Respondent

Appearance:

Shri S.K. Bhaskar, DR for the Appellants

Shri D.H. Madkarni, Advocate for the Respondent

Date of Hearing/decision : 2.11.2010

final

ORAL ORDER NO. 1260/2010 SM (BR)

Per Ashok Jindal:

Revenue is in appeal against the order of lower appellate authority dropping the penalty of Rs.24,294/-. The respondents has also filed the cross objection.

2. The learned Advocate for the respondents submits that the adjudication order was passed by one Shri B.N. Singh, the then Additional Commissioner who was later on promoted to Commissioner (Appeals) and passed the impugned order as lower appellate authority. He also submits that the person who has passed the adjudication order again passed the order as appellate authority which is in violation of principles of natural justice.

3. Heard.

4. Considered the submissions made by the learned Advocate for the respondents, the impugned order is in violation of principles of natural justice as both adjudication order as well appellate order were passed by same person. Hence the matter needs fresh examination by the lower appellate authority. Accordingly, the impugned order is set aside. Matter is sent back to the lower appellate authority to deal the issue afresh. Cross Objection also disposed of in the above terms.

(Ashok Jindal)
Member(Judicial)