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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 / 954 / 2007 -SM[BR] Date 19/07/2010

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

To :
M/S L.H.SUGAR FACTORIES LTD.

THE GENERAL MANAGER, PILIBHIT.

M/S L.H.SUGAR FACTORIES LTD. Appellant

Vs

C.C.E. MEERUT II Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 763 / 2010 -SM[BR] dated 14.7.2010 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. MEERUT II
   OPP. SAHEED PARK (NEAR ASHOK KI LAT) DELHI ROAD, MEERUT (UP)
2. Adv. / Consult
   MR.KAPIL VAISH
   B-51, BUTLER PLAZA, 95, CIVIL LINES, BAREILLY.

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 Publictions 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 (Haryana)
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-III

SINGLE MEMBER BENCH

Date of hearing/decision: 14.7.2010

Central Excise Appeal No.954 of 2007-SM

Arising out of the order in appeal No.232-235-CE/APPL/MRT-II/2006 dated 22.12.2006 passed by the Commissioner (Appeals), Customs & Central Excise, Meerut.

For Approval and Signature:

Hon'ble Shri M. Veeraiyan, Technical Member

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	Yes
2	Whether it should be released under Rule 27 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	NO
3	Whether their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

M/s L.H. Sugar Factories Ltd. .... Appellants

Vs.

C.C.E., Meerut II .... Respondent

Appearance:

Shri Kapil Vaish, Chartered Accountant for the appellant
Shri S.K. Bhaskar, Authorised Departmental Representative (JDR) for the Revenue

Coram: Hon'ble Shri M. Veeraiyan, Technical Member

Final Oral Order No. 763/2010 SM (BR)

Per M. Veeraiyan:

This is an appeal against the order of the Commissioner (Appeals) No. 232-235-CE/APPL/MRT-II/2006 dated 22.12.2006 relating to upholding of demand to the tune of Rs.31,331/- along with interest and sustaining penalty of equal amount after denying the credit of duty paid on welding electrodes.

2. Learned Chartered Accountant for the appellants submits that they are eligible for the credit in terms of the decision of the Hon'ble High Court of Chhattishgarh in the case of Ambuja Cement Ltd. reported in 2010 - TIOL - 209 - HC - Chhattisgahr - CX. At any rate, he submits that the show cause notice having been issued on 18.5.05 demanding duty for the period April, 2003 to August, 2003 is also time barred.

3. Learned DR reiterates the findings and reasoning of the Commissioner (Appeals).

4. Considering that on the issue of availability of credit on welding electrodes, there were differing decisions and there is no scope for alleging suppression of relevant facts by the appellant, I hold that invocation of extended perod is not justified. Therefore, the appeal succeeds on limitation.

5. Considering that the disputed amount is small, merit of the case is being gone into.

6. Appeal is allowed on the ground of limitation, with consequential relief, as per law.

(M. Veeraiyan)
Technical Member

scd/