

THE CUSTOMS, EXCISE & GOLD (CONTROL) APPELLATE TRIBUNAL,

West Block No. 2, R.K. Puram, New Delhi - 110066.

BENCH NB(SM)Appeal No. E/1876/2000-NB(SM) with
E/CO/206/2000-NB(SM)

Dated: 11/1/2001

CEGAT
NEW DELHI
To,M/s Vindhya Enterprises
P.O. Chorhata
Rewa (M.P)

In the matter of :

M/s Vindhya Enterprises Appellant
vs.
CCE Raipur RespondentI am directed to transmit herewith a certified copy of Final Order No. A/52/2001/NB(SM)
Dated: 12-12-2000 passed by the Tribunal under Section 35-C(1) of Central Excise
& Salt Act, 1944/Section 129 (B) of the Customs, Act, 1962.

Copy to :

Asstt. Registrar
NB(SM)

1. CCE Raipur
2. CCE/CE/(Appeal) Bhopal
3. Chief Commissioner of Central Excise / Customs. Jaipur
4. Adv. / Consult. Shri N. R. Khaitan with Ms. Rohina Nath, Advocates.
E-65, Himalaya House
6th Floor, 23 - K-G, Marg
New Delhi
5. S.D.R
6. JCDR
7. Bar Association, CEGAT, New Delhi
8. Library, CEGAT, New Delhi
9. Director (Review), C.B.E.C. North Block, New Delhi
10. Guard File.
11. M/s Deeparchic Publications, M-93, Marg-46, Saket, New Delhi.
12. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah Marg, opp. Sachdeva P.T. College of
Defence Colony, New Delhi-110003
13. M/s Lex Site Com. Ltd., Mumbai
14. Office Copy
15. M/s cen - cus publication.

Asstt. Registrar

CUSTOMS, EXCISE & GOLD (CONTROL) APPELLATE TRIBUNAL
NEW DELHI.

- 2000
Appeal No. E/1876/2000-NB (SM) with
E/CO/206/2000-NB (SM)

(Arising out of Order-in-Appeal No. 297-CE/BPL/2000
dated 25.2.2000 of the Commissioner of Central
Excise (Appeals), Bhopal (M.P.).

M/s. Vindhya Enterprises ...appellants
Rep. by Shri N.R. Khaitan, Advocate with
Ms. Rohina Nath, Advocate

Vs.

CCE, Raipur ...respondents
Rep. by Shri A.K. Jain, SDR

CORAM: SHRI LAJJA RAM, MEMBER (T)

FINAL Order No. A/S2/01/12.12.2000
NB (S/M)

PER LAJJA RAM:

The matter was called.

2. Shri N.R. Khaitan, Advocate appearing with
Ms. Rohina Nath, Advocate submits that it is a
fact that the Mumbai Department of M/s. Bharat
Heavy Electricals Ltd. (BHEL) could not obtain
registration prior to 31.12.94 but it is also a
fact that the appellants were a bonafide
purchasers and had purchased goods on the basis of
the invoices and there was no doubt that the duty
has been paid and the goods have been received.

He submits that under the similar circumstances the Tribunal has taken a view that the modvat credit was not to be denied in the absence of any other infringement of the law. He refers to the Tribunal's decision in the case of Commissioner of Central Excise, Mumbai-I Vs. Vasumati Printers = 2000 (115) ELT 731 (Tribunal).

3. I have heard Shri A.K. Jain, SDR for the respondents/revenue and Shri N.R. Khaitan, Advocate and Ms. Rohina Nath, Advocate for the appellants, M/s. Vindhya Enterprises and have gone through the record.

4. In para-5 of his order-in-appeal, the Commissioner of Central Excise (Appeals) has recorded as under:-

"5. I find from the above, that the credits were taken by the appellants during the month of August, 1994 to September, 1994 on the strength of invoices issued by an un-registered dealer, is not in dispute. Though the appellant has submitted that the dealer was registered subsequently before 31.12.94 but in support of his claim, he did not produce anything to indicate that the dealer was registered subsequently. Since, there is nothing on record to show that the dealer was registered prior to 31.12.94, the appellants is not eligible for credit on the basis of such documents, in view of the CBEC's circular (supra). The fact of the case law cited by the appellants is clearly distinguishable from the case under consideration. This being the position, the credit has rightly been denied by the

adjudicating authority and I do not find any reason to interfere with the impugned order."

5. I find that it is an admitted position that at no stage, the Mumbai Department of BHEL was registered.

6. The law was clear and the requirement of registration upto 31.12.94 was an extra legal concession and even within this concession this particular case is not covered. In the case referred to by the ld. Advocate that Commissioner of Central Excise, Mumbai-I Vs. Vasumati Printers = 2000 (115) ELT 731 (Tribunal), it was an admitted position that the suppliers, M/s. Parekh Sales Agency got themselves registered under the relevant rules on 18.8.94. Under Board's Circular No.76/76/94-CX, dated 8.11.1994, it was provided that the invoices issued by the un-registered dealer could be accepted provided such dealers got themselves registered before 31.12.94. As in the present case, it is an admitted position that the suppliers were not registered upto 31.12.94, I consider that a correct view has been taken by the ld. Commissioner of Central Excise (Appeals). The matter does not call for any interference. As a result, the appeal filed by the party is rejected. Cross objections are also disposed of accordingly.

Order dictated & pronounced in the Open Court on 12.12.2000.

(LAJJA RAM)
MEMBER (T)

12.12.2000
Ckp.