

GRAM : CEGCANAL

REGISTERED/A.D

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

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

BENCH NB(SM)

Appeal No. E/1101/95-NB(SM)

Dated: 19.1.2001

CEGAT
NEW DELHI

To,

CCE Chandigarh

In the matter of :

CCE Chandigarh

Appellant

vs.

M/s Punjab Communication Ltd.

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/93/2001/NB(SM)
Dated: 16.1.2001 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 :

M/s Punjab Communication Ltd.,
B-93, Phase-VIII, Mohali (PB)

Asstt. Registrar

NB(SM)

- 1.
2. CCE/EE/(Appeal) Chandigarh
3. Chief Commissioner of Central Excise / Customs: New Delhi
4. Adv. / Consult.
— None —
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

**In the Custom, Excise & Gold (Control) Appellate Tribunal
New Delhi**

E/1101/95 NB(S)

APPEAL NO.....OF 19 (.....)

ARISING OUT OF ORDER IN ORIGINAL/APPEAL NO.

175/CE/CHD/99 dt. 12.02.99

.....DATED.....

PASSED BY..... COMMISSIONER (Appeals) CENTRAL
EXCISE CHANDIGARH

Date of decision..... 16-1-2001.....

COMMISSIONER OF CENTRAL EXCISE, CHANDIGARH.....APPELLANT (S)

Represented by Sh./Smt..... S.C. PUSHKARNA, DR.....

VERSUS

PUNJAB COMMUNICATIONS LTD.....RESPONDENT (S)

Represented by Sh./Smt..... NONE

CORAM :

SHRI V.K.AGRAWAL, MEMBER (TECHNICAL)

To be referred to the Reporter or not?
ORDER NO. A/93/01/NB(CS)/M/

FINAL

Per V.K.AGRAWAL:.....

In this appeal filed by Revenue the issue involved is whether modvat credit can be availed of after six months from the date of issue of the duty paying documents.

2. When the matter was called, no one

was present on behalf of the Respondents M/s Punjab Communications Ltd. As the issue involved has been settled by the Larger Bench of the Appellate Tribunal in the case of Kusum Ingots and Alloys Ltd. Vs. CCE Indore, 2000 (39) RLT 440, I heard Shri S.C.Pushkarna, Ld. DR and perused the records.

3. M/s Punjab Communications Ltd. had taken modvat credit amounting to Rs. 92,323.50 p on 10-1-96 on the strength of invoice No. 278 dt. 31-3-95. The Assistant Commissioner, under Adjudication Order No. 7/97 dt. 22-1-97, disallowed the modvat credit, holding that the credit has been taken after expiry of six months of the issue of invoices which is in contravention of Rule 57 G (2) of the Central Excise Rules. The Commissioner (Appeals), however, under the impugned Order held that the invoice was issued on 31-3-95 and the provisions which bars the taking of credit after expiry of six months, came into force with effect from 29-6-95 and as held by the Tribunal in the case of Telco Vs. CCE Bombay 1996 (87) ELT 157, the said provisions cannot have retrospective effect and would not apply to invoices issued prior to 29-6-95.

The Larger Bench of the Tribunal, however, in the case of Kusum Ingots & Alloys Ltd. supra, has held that after the amendments credit cannot be taken on duty paying documents which are more than six months old though issued prior to the amendments. Following the ratio of the Larger Bench decision, the appeal filed by the Revenue is allowed by setting aside the impugned Order.

(V.K.AGRAWAL)

MEMBER (TECHNICAL)

Sunita
17-1-2001