

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/2910/2000-NB(SM)

Dated : 31/1/2001

CEGAT
NEW DELHI
To,

CCE Chandigarh

In the matter of :

CCE Chandigarh

Appellant

vs.

M/s Hindustan Chemicals

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/144/2001-NB(SM)
Dated : 23-1-2001 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 Hindustan Chemicals
Dehra Road, Jawalamukhi
Distt. Kangra (H.P)

Asstt. Registrar
NB (SM)

1. CCE/CE/(Appeal) Chandigarh
2. Chief Commissioner of Central Excise / Customs. New Delhi
3. Adv. / Consult.
4. — 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, Bhisim 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 Publications.

Asstt. Registrar

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

E/2910/2000 NB(SM)

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

ARISING OUT OF ORDER IN ORIGINAL/APPEAL NO.

28/DIR/P&PR/2000 dt. 13-6-2000 DATED.....

PASSED BY.....COMMISSIONER...(APPEALS)...CENTRAL EXCISE

CHANDIGARH

Date of decision. 23-1-2001.....

CCE CHANDIGARH.....APPELLANT (S)

Represented by Sh./Smt.....S.C. Pushkarna, JDR

VERSUS

HINDUSTAN CHEMICALS.....RESPONDENT (S)

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

CORAM :

SHRI V.K.AGRAWAL, MEMBER (TECHNICAL)

To be referred to the Reporter or not ?

FINAL ORDER NO. A/144/01/NBCE/m

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

In this appeal filed by Revenue, the issue involved is whether Modvat Credit can be availed of on the strength of original copy of the invoices.

2. M/s Hindustan Chemicals, respondents, have submitted under

their letter dt. 19-1-2001, to dismiss the appeal as Modvat Credit can be availed of on the basis of original invoices interms of sub-Rule (2A) to Rule 57 G of the Central Excise Rules. Shri S.C.Pushkarna, Ld DR., submitted that as per the decision of the Larger Bench of the Appellate Tribunal in the case of CCE New Delhi Vs. Avis Electronics Private Ltd. 2000 (117) ELT 571, the manufacturer can take credit of the duty paid on inputs only on the basis of duplicate copy of the invoices and when duplicate copy of invoice has been lost ⁱⁿ transit, he can take credit of duty p aid on the inputs on the basis of original invoices provided he satisfies the Assistant Commissioner about the loss of duplicate copy; that in the present matter the Respondents had taken the modvat credit on the basis of original copy without applying to the Assistant Commissioner and as such satisfaction of the Assistant Commissioner was not there in the present matter.

3. I have considered the submissions of both the sides.. In this case the Respondents claimed

that they availed the modvat credit on the basis of original copy of invoices as the duplicate copy for the transporter was lost in transit and it was duly intimated to the Department. Further, the Commissioner (Appeal) has allowed the modvat credit subject to verification by the Assistant/Dy. Commissioner, of the receipt of the inputs and their use in the final products and also subject to verification of the genuineness of the documents. I therefore, find no infirmity in the Order passed by the Commissioner(Appeals) as he has allowed modvat credit subject to the satisfaction of the Assistant/Dy Commissioner about the receipt of goods and genuineness of the duty paying documents. The appeal filed by the Revenue is, therefore, rejected.

(V.K.AGRAWAL)
MEMBER(TECHNICAL)

Sunita

23-1-2001