

GRAM : CEGCANAL

REGISTERED/A.D

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

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

Appeal No. E/S/ 1874/00 - NB (SM)  
E/ 3337/00 -

BENCH NB(SM)

Dated : 7/2/2001

CEGAT  
NEW DELHI  
To,

M/s Punsumi India Ltd;

B-320, Indl. Area,

Bhiwadi, Dist. Alwar (Raj)

In the matter of :

M/s Punsumi India Ltd.

Appellant

vs.

CCE Jaipur

Respondent

Stay order no. S/ 59/00 - NB (SM)

I am directed to transmit herewith a certified copy of Final Order No. A/ 145/00 - NB (SM)  
Dated : 24-1-2001.....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 :

Asstt. Registrar  
NB(SM)

1. CCE Jaipur
2. CCE / EE / (Appeal) Jaipur
3. Chief Commissioner of Central Excise / Customs - Jaipur
4. Adv. / Consult. Shri Ranohir Singh, Adv.,  
4E' 4th Floor World Trade Tower,  
Barakhamba lane, 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

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

E/S/1879/00-NB(SM) and

APPEAL NO. E/3337/00-NB(SM) OF 19 (.....)

ARISING OUT OF ORDER IN ORIGINAL/APPEAL NO.

1074(KDT)CE/JPR-I/2000 dt. 9-10-2000 DATED.....

PASSED BY COMMISSIONER OF CUSTOMS & CENTRAL EXCISE  
(APPEALS) JAIPUR

Date of decision 19-1-2001.....

M/S PUNSUMI INDIA LTD. APPELLANT (S)

Represented by Sh./Smt. RANDHIR SINGH, ADVOCATE

**VERSUS**

CCE, JAIPUR RESPONDENT (S)

Represented by Sh./Smt. M.D.SINGH,  
JDR

CORAM :

SH. V.K.AGRAWAL, MEMBER (TECHNICAL)

To be referred to the Reporter or not ?

FINAL ORDER NO. A/145/01/NB(CE/m)

STAY ORDERS/59/01/ARB(CE/m)

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

Today the matter is posted for hearing stay application filed by M/s Punsumi India Ltd against the Order No. 1074/(KDT)-CE/JPR-I/2000 dt. 9-10-2000 passed by the Commissioner (Appeals) Jaipur, upholding penalty of Rs. 5,000/-

against the Respondents. As the issue involved is in very narrow compass, I take up the appeal itself for disposal with the consent of both the sides.

2. Shri Randhir Singh, Ld. Advocate, submitted that the Appellants manufacture Aluminium Electrolytic capacitors which are used in Telecommunication equipments and Audio Video Appliances; that testing is an essential part of their manufacturing and marketing process; that the capacitors go out of satisfied tolerance with the passage of time if kept unused; that for correcting the parameters, they <sup>are</sup> retesting and reconditioning the capacitors if these are kept beyond a period of one year in stock; that during the retesting/reconditioning, ~~of~~ the capacitors get rejected; that the Commissioner (Appeal) under the impugned Order set aside the demand of duty confirmed by the Dy. Commissioner on such capacitors which got rejected but confirmed the penalty of Rs. 5,000/-; that the Commissioner (Appeals) has followed the decision in the case of Alloy Steel Forging (Pvt.) Ltd VS. CCE Meerut 1999(110) ELT 785. The Ld. Advocate further mentioned that Commissioner (Appeal) had upheld the penalty in view of the ratio of the said decision; that in the said decision no penalty was

imposed even by the lower authorities, and accordingly in the present matter also no penalty need be imposed.

3. On the other hand, Shri M.D.Singh, Id. SDR, submitted that the penalty is imposable as the proper procedure was not followed by them. In reply the Id. Advovate submitted that they are following procedure prescribed by the CCE Jaipur under Trade Notice No. 29/36 dt. 30-5-86.

4, I have considered the submissions of both the sides. The Commissioner (Appeal) has upheld the imposition of penalty as it was observed by the Tribunal in Alloys Steel Forgings Case that it was open to the Department to impose a penalty for contravention of the relevent Rules namely entry in the waste & scrap account without obtaining the permission of the Commisioner. In the present matter it has been claimed by the Appellants that they are maintaining the record of the transfer of the quantity of capacitors for re-testing in their RG-I Register as well as in the form of the Finished Goods Return V<sup>u</sup>o<sup>u</sup>cher and Reinspected Goods Return V<sup>u</sup>o<sup>u</sup>cher; that all these documents are regularly sent on the monthly basis to the Department.

Accordingly, I find no reason for imposition of penalty on the Appellants in the present matter. I, therefore, stay the recovery of the amount of penalty and set aside the impugned Order. The appeal filed by the Appellant is allowed.

(V.K.AGRawal)

MEMBER (TECHNICAL)

sunita

24-1-2001