

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/622/99-NB

Dated : 9/2/07

CEGAT  
NEW DELHI  
To,

M/s Paras Jalan Plasto & Oils (P) Ltd.

Focal Point, Rajpura.

Distt. - Patiala

In the matter of :

M/s Paras Jalan Plasto & Oils (P) Ltd. Appellant

vs.

CCE Chandigarh Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/179/07/NB(SM)  
Dated : .....9/2/07..... 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 :

1. CCE Chandigarh

RU  
Asstt. Registrar  
NB(SM)

2. CCE/CEA (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 Census Publication

RU

Asstt. Registrar

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

APPEAL NO. E/622/99-NB OF 19 (.....)

ARISING OUT OF ORDER IN ORIGINAL/APPEAL NO.

1059/070/CE/CHD/98 DATED 15.12.98

PASSED BY the Commissioner (Appeals)

Central Excise & Customs, Chandigarh

Date of decision 11.1.2001

M/s. Paras Jalan Plasto & Oils(P) Ltd. APPELLANT (S)

Represented by Sh./Smt. J.P. Kaushik, Advocate

**VERSUS**

Commissioner of Central Excise, Chandigarh RESPONDENT (S)

Represented by Sh./Smt. None

CORAM:

Shri P.S. Bajaj

Member (Judicial)

To be referred to the Reporter or not ?

FINAL

ORDER NO. A/179/01/NBCE/m

Per P.S. Bajaj

This appeal has been filed by the appellants against Order-in-Appeal dated 9.12.98 vide which the Commissioner (Appeals) had confirmed the Order-in-Original dated 22.9.97 of the Assistant Commissioner, declining the modvat

credit of the disputed amount of Rs.21007.07 to them.

2. The appellants claimed modvat credit of Rs.21007.07 in respect of the inputs received by them in their factory premises, on the basis of the disputed invoices. The Assistant Commissioner through Order-in-Original disallowed the modvat credit of that amount by observing that the disputed invoices generated through computer did not carry printed Serial Number, address, central excise number of the registered person issuing the invoices, name of Range/Division/Commissionerate, Income tax, Sales tax numbers etc. as required under Notification No. 23/95-CE(NE) dated 30.5.95 read with Trade Notices 32/95-CE and 42/95-CE. He also imposed penalty amounting to 10% of the wrongly availed modvat credit amount, under Rule 173 Q of the Central Excise Rules. His order was affirmed by the Commissioner (Appeals) through impugned Order-in-appeal.

3. I have heard both the sides.

4. The bare perusal of the show cause notice issued to the appellants, shows that the allegations made against them for disallowing the disputed amount were, that the invoices issued under Rule 57 GG of the Rules, are required to be

preprinted, containing name, address and Central Excise Registration No. of the registered person issuing the same, name of the Range/ Division/ Collectorate, income tax, sales tax, registration Nos. in terms of Notification No. 23/95 dated 30.5.95, where as the said particulars were computerised on the invoices in question and as such the invoices were not the proper documents for availing modvat credit, But neither the Assistant Commissioner when passing the Order-in-original nor the Commissioner (Appeals) while affirming that order-in<sup>the</sup> appeal filed before him by the appellants, had referred to these allegations in their respective orders. The Assistant Commissioner disallowed the modvat credit on the ground that the invoices were computerised and were not having the printed name, address, Central Excise numbers of the registered persons issuing the same, whereas all these particulars were there, even as per allegations in the show cause notice referred to above, but were computerised.

5. Besides this, in the Order-in-Appeal the Commissioner (Appeals) had gone beyond the scope of the show cause notice against the appellants. He rejected the appeal of the appellant against Order-in-Original passed by the Assistant

Commissioner, by observing that particulars of the registered person who issued invoices as required under Notification NO. 23/95 CE(NT) were missing, whereas this was never the case of the Revenue in the show cause notice. Apparently, both the authorities below had gone beyond the scope of the show cause notice and disallowed the modvat credit on different grounds without having reference to the allegations contained in the show cause notice. Therefore, the impugned order of the Commissioner (Appeals) affirming the Order in original of the Assistant Commissioner, cannot be legally sustained and deserves to be set aside. The matter must be sent back to the adjudicating authority for deciding the modvat claim of the appellants afresh keeping in view the allegations in the show cause notice and the law on the point.

6. Consequently, the impugned order of the Commissioner (Appeals) is set aside. The matter is sent back to the adjudicating authority for deciding the same afresh as observed above, after hearing the appellants, in accordance with law. n The appeal of the appellants stands allowed by way of remand.

( Pronounced in the Court )

( P.S. Bajaj )  
Member(Judicial)

Dt:11.1.2001  
ss