

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/1175-1176/00 NB(SM)

Dated : 9/2/07

CEGAT  
NEW DELHI  
To,

M/s Jaipur Polyspin Ltd.  
SP-1, Ind. Area, Ringul.  
Distt. Sikar (Raj)

In the matter of :

M/s Jaipur Polyspin Ltd. Appellant  
vs.  
CCE Jaipur - II Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/198-199/01/NB(SM)  
Dated : ..... 31.1.2007 ..... 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 Jaipur - II
2. CCE/EE / (Appeal) Jaipur
3. Chief Commissioner of Central Excise / Customs: Jaipur
4. Adv. / Consult. Sh. K. K. Anand, Adv.  
A-5, Basement, Lajpat Nagar - III  
New Delhi - 24.
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
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11. M/s Deeparchic Publications, M-93, Marg-46, Saket, New Delhi.
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Defence Colony, New Delhi-110003
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NB(SM)

Asstt. Registrar

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

E/APPEAL NO. 1175-1176/00-NB(S)

(Arising out of Order-in-Appeal Nos. 409-410/KDT)CE/JPR  
99 dated 16.12.99 passed by the Commissioner of Customs  
& Central Excise (Appeals), Jaipur).

M/s. Jaipur Polyspin Ltd.

Appellant  
(Sh. K.K. Anand, Advocate)

vs

C.C.E., Jaipur-II.

Respondent  
(Sh. H.R. Bheema Shankar, SDR)

FINAL ORDER NO. A/198-199/01/NB  
(Dated the 31st Jan., 2001).

(S/m)

PER S.S. KANG :

The appellants filed these appeals against the common order-in-appeal whereby the refund filed by the appellants was held to be time-barred.

The appellants filed the refund claims in consequence to the orders-in-appeal passed in their favour. The adjudicating authority allowed the refund claims. The revenue reviewed the order passed by the adjudicating authority on the ground that the refund claims are time-barred and the Commissioner (Appeals) in the impugned order allowed the appeals filed by the revenue.

Ld. Counsel, appearing on behalf of the appellants, submits that as the appellants filed this refund claim, as consequential relief in view of the order-in-appeal passed in their favour, the claim cannot be held to be time-barred. He relies upon the decision of the Tribunal in the case of National Engg. Indus . Ltd. (Final Order No. A/2237-2239/00-NB(S) dated 5.12.2000). He, therefore, prays that the appeals be allowed.

Heard ld. D.R., who reiterates the findings of the lower authorities.

....2.

In the impugned order, the Commissioner (Appeals) allowed the appeals filed by the appellants. The appellants filed these refund claims in view of the orders-in-appeal whereby the benefit of MODVAT Credit was allowed to them. The Tribunal in the case of National Engg. Indus. Ltd. vs C.C.E., relied upon by the appellants and after relying upon the earlier decision of the Tribunal in the case of General Engg. Works vs C.C.E. reported in 1999 (31) RLT 488, held that such refunds cannot be held to be time-barred when they are filed after six months from the payment of duty as such refunds are filed in pursuance to the orders passed by the appellate authority. The Tribunal in this case, further, held that these refund claims are, however, subject to the provisions of unjust enrichment.

In view of the above decision of the Tribunal, the findings of the Commissioner (Appeals) that refund claims are time-barred, is set aside and the matter is remanded to the Commissioner (Appeals) for deciding afresh in view of the decision of the Tribunal in the case of M/s. National Engg. Indus. Ltd. (supra). The appeals are disposed of as indicated above. (Dictated in Court).

(S.S. KANG)  
MEMBER (JUDICIAL)

Dt. 31.01.2001