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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/3088/00-NB(SM)

Dated : 9/2/01

CEGAT
NEW DELHI

To,

M/s Rajasthan Synthetic Inds. Ltd.

B-1, Road No. 1, V.K.I. Area,

Jaipur - 302 013

In the matter of :

M/s Rajasthan Synthetic Industries Ltd.

Appellant

vs.

CCE Jaipur

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/211/01-NB(SM)
Dated :2.2.01.....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/CEET (Appeal) Jaipur
3. Chief Commissioner of Central Excise / Customs. Jaipur
4. Adv. / Consult. Sh. Pankaj Malik C.A.
123, Vidyut Nagar-B
Queens Road, Jaipur (Raj)
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
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Asstt. Registrar

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

E/APPEAL NO. 3088/00-NB(S)

(Arising out of Order-in-Appeal No. 631(KDT)CE/JPR-I/2000 dated 3.7.2000 passed by the Commissioner of Central Excise (Appeals), Jaipur).

M/s. Rajasthan Synthetic Industries Ltd. . Appellant
(Sh. P.R. Mullick, CA)

vs

C.C.E., Jaipur.

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

FINAL ORDER NO. A/211/01/NB
(Dated the 2nd Feb., 2001) (S/m)

PER S.S. KANG :

The appellants filed this appeal against the order-in-Appeal passed by the Commissioner (Appeals).

Brief facts of the case are that the appellants are engaged in the manufacture of fabric bags and they were availing the benefit of MODVAT Credit. On 5.3.97, the factory of appellants was visited by the officers of the revenue. On scrutiny of record and verification of the inputs, certain inputs were found in excess to their recorded balance. A show cause notice was issued to the appellants for confiscating the inputs found in excess to their statutory record under Rule 173 Q of the Rules and for imposition of penalty under Rule 173 Q and Rule 226 of the Rules. The adjudicating authority ordered confiscation of the goods under Rule 173 Q of the Rules and gave an option to redeem the goods on payment of redemption fine of Rs. 50,000/-. A penalty of Rs. 10,000/- was also imposed under Rule 173 Q of Rules. The appellants filed an appeal and the Commissioner (Appeals), vide impugned order, held that the goods are not liable to confiscation under Rule 173 Q of the Rules, However, Rule 226 of the Rules also provides for the confiscation of the goods found un-accounted for in their statutory record and penalty of Rs.

2,000/- was imposable under Rule 226 of the Rules and up-held the confiscation of the goods by applying rule 226 of the Rules and imposed a penalty of Rs. 2,000/- under Rule 226 of the Rules.

Heard both sides.

The contention of the appellants is that the Commissioner (Appeals), in the impugned order, invoked the provisions of rule 226 of the Rules for confiscation of the goods. He submits that no notice for confiscation of the goods under Rule 226 is served upon the appellants. However, the appellants are not contesting the imposition of penalty of Rs. 2,000/- under Rule 226 of the Rules.

A show cause notice dated 4.9.97 was issued to the appellants for confiscation of the goods under Rule 173Q of the Rules. No notice under Rule 226 of the Rules was served upon the appellants. Therefore, the order passed by the Commissioner (Appeals) in respect of confiscation of goods under Rule 226 of the Rules is beyond the scope of show cause notice, hence is set aside. However, the imposition of penalty of Rs. 2,000/- is up-held. The appeal is disposed of as indicated above. (Dictated in Court).

(S.S. KANG)
MEMBER (JUDICIAL)

Dt. 2.2.2001
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