

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/294-296/2000/NB(SM)

Dated : 15/2/2001

CEGAT
NEW DELHI
To,

M/s Polymer Papers Ltd
12/6, Mathura Road
Faridabad

In the matter of :

M/s Polymer Papers Ltd

Appellant

vs.

CCE New Delhi

Respondent

I am directed to transmit herewith a certified copy of Final Order No A/248-250/01/NB(SM)
Dated : 10/2/2001 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 :

AS
Asstt. Registrar
NB(SM)

1. CCE New Delhi
2. CCE / CC / (Appeal)
3. Chief Commissioner of Central Excise / Customs.
4. Adv. / Consult. Sh. K.L. Handa, Charit
689, Sector 16, Faridabad
5. S.D.R. - NB(SM)
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. Gen-Cor

AS
Asstt. Registrar NB(SM)

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

Appeal No. E/294-296/2000/NB(SM)

(Arising out of Order-in-Appeal No. 1115/CE/DLH/99 dt. 2.11.1999 passed by the Commissioner (Appeals), Central Excise, New Delhi)

M/s. Polymer Papers Ltd. .. Appellants
(Rep. by Shri K.L. Handa, Consultant)

vs.

C.C.E. New Delhi .. Respondent
(Rep. by Shri Y.R. Kilaniya, JDR)

DOH: 16.10.2000

FINAL Order No. A/248-250/01/ dt: NB G/m/

Per K.K. Bhatia, Member (T):

The appellants were issued three Show Cause Notices dt. 31.10.95, 16.11.95 and 14.12.95 by the Asst. Commissioner of Central Excise Division-I, Faridabad. In these notices, it was alleged that they had cumulatively availed ~~import~~ credit totally amounting to Rs.31,325/- on certain invoices issued by the dealers which did not contain correct and full details of manufacturers/dealers/suppliers, that these invoices did not have 'Duplicate for Transporter' pre-printed and that the serial nos. were also not printed in these invoices (old S.Nos. were rubbed with fluid and another serial nos. were put and both were visible). Consequently, they were called upon to show cause why the above stated amount should not be recovered from them and penalty should not be imposed on them.

2. After hearing the representations of the noticees, the Asst. Commissioner of Central Excise vide his Order dt. 30.9.97 confirmed the demand of Rs.25,473/- on the appellants and also imposed a penalty of Rs.2,500/- on

them. On an appeal, the Commissioner (Appeals), New Delhi vide his Order dt. 2.11.99 allowed the modvat credit of Rs.5,633/- to the appellants but rejected the appeal relating to the balance amount of Rs.19.840/-. She also set aside the penalty imposed on them.

3. The present appeal is against the above order of the Commissioner (Appeals). I have heard Shri K.L. Handa, Consultant for the appellants and Shri Y.R. Kilaniya, JDR for the Respondents. With regard to the charge that the invoices did not bear 'Duplicate for Transporter' pre-printed on them and the serial numbers were also not printed but the old numbers were rubbed with fluid and another serial numbers were put on them, the appellants' contention is that the serial numbers of the invoices got changed from April and to save expenditure on stationery, the dealers obliterated the old numbers with fluid and put new serial numbers. This explanation of the party is not accepted by the original authority with the observation that the numbers printed on some other invoices from the same invoice book is not subject to the same treatment. The same contention has been advanced before me by the Id. Consultant for the appellants. I have considered these submissions. It appears to me that if the invoices in respect of which objection is taken by the Department, did not have the old Nos. obliterated with the white fluid, the same would have been accepted by the Departmental authorities for the purpose of availing the modvat credit thereon. Under the circumstances it is but fair if the matter relating to the invoices in question is remanded to the original authority for getting the actual duty payment

..3..

on such invoices verified from their origin. Accordingly, I set aside the Order-in-Appeal relating to the denial of benefit of modvat credit of Rs.19,840/- and remand the matter to the original authority to get the duty payment on these invoices verified from the office of their origin and if that authority certifies that the duty has been paid on these invoices, to allow the modvat credit. The matter is thus remanded for de novo adjudication in above terms. The appellant shall be afforded reasonable opportunity before taking final decision in the matter.

4. The appeal is disposed of in the above terms.

(Announced in the Court)

(K.K. Bhatia)
Member (Technical)

ms.
10.2.01