

GRAVIT

CEGCANAL

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

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

REGISTERED/A.D

BENCH - N.B.(SM)

Dated : 16/2/2001

Appeal No. E/2480/2000/NB(SM)

CEGAT  
NEW DELHI  
To,

CCE New Delhi

In the matter of :

CCE Delhi

Appellant

vs.

M/s Dev Paper (P) Ltd

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/274/01/NB(SM)  
Dated : 14/2/2001 passed by the Tribunal under Section 35-C(1) of Central Excise & Salt Act, 1944/Section 129 (B) of the Customs, Act, 1962.

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Asstt. Registrar  
NB(SM)

Copy to :

1. M/s Dev paper (P) Ltd  
Bhivani Road  
Sind, Haryana
2. CCE-CC / (Appeal) Delhi
3. Chief Commissioner of Central Excise / Customs. Delhi
4. Adv. / Consult.
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, Bhishm Pitamah Marg, opp. Sachdeva P.T. College of Defence Colony, New Delhi-110003
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Asstt. Registrar NB(SM)

Customs Excise & Gold(Control)Appellate Tribunal

Northern Bench(Single Member)

E/2480/2000-NB

(Arising out of Order-in-Appeal No.600-CE/DLH/2000  
dt.23.5.2000 passed by the Commissioner(Appeals)Central  
Excise,Delhi)

CCE, Delhi

Appellant  
(Rep. by Shri S.C.Pushkarna,JDR)

vs

M/s. Dev Paper(P) Ltd.

Respondent  
(Rep. by none)

Coram : Shri G.R.Sharma,Member Technical

FINAL Order No. A/274/01/108B (e/m) 14.2.2001

Per<sup>2</sup> G.R.Sharma:

This is an appeal filed by Revenue against the impugned order passed by the Commissioner(Appeals) holding that Modvat credit could be taken on the strength of gate passes endorsed on or after 1.4.94 in terms of Notification No.16/94 dt.1.4.94.

2. The facts of the case in brief are that the Asstt. Commissioner disallowed Modvat credit in respect of gate passes issued before 1.4.94 but endorsed upto 30.6.94. The assessee filed an appeal before the Commissioner(Appeals) who allowed Modvat credit taken on the strength of gate passes issued before 1.4.94 but endorsed on or after 1.4.94 and credit thereon was taken on or before 30.6.94.

3. Arguing the case Shri S.C.Pushkarna, Ld. DR submits that gate passes were issued before 1.4.94 and since after 1.4.94 they were not valid documents, therefore, they could not be endorsed. He however, submits that the matter went to the High Court and the <sup>Honble Gujarat</sup> High Court ~~concerned~~ has held that Modvat credit could be taken on the strength of gate passes endorsed on or after 1.4.94 but <sup>took credit</sup> on or before 30.6.94.

4. None appears for the respondent. However, looking to the fact that the Tribunal has been consistently holding right from the decision of the West Regional Bench in the case of Moosa Hazi Patrawala that Modvat credit could be taken on the strength of endorsed gate passes which were endorsed on or after 1.4.94 but <sup>took credit on or</sup> before 30.6.94. I also note that <sup>^</sup> this matter went to the Hon'ble <sup>Gujarat</sup> High Court which held that Modvat credit on the strength of endorsed gate passes could be taken upto 30.6.94. In the circumstances, I do not see any merit in the appeal of Revenue. The appeal is, therefore, rejected.

Order dictated in the open Court.

(G.R.Sharma)  
Member Technical

Dt.14.2.2001  
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