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

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

BENCH-NB(SM)

Appeal No. E/542/99/NB(SM)

Dated: 20/2/2001

CEGAT  
NEW DELHI

To,

M/s Rosa Sugar works  
Rosa,  
Dist - Saharanpur (UP)

In the matter of :

M/s Rosa Sugar works

Appellant

vs.

CCE Kanpur

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/291/01/NB(SM)  
Dated : ..... 15/2/2001 ..... 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 :

Asstt. Registrar

NB(SM)

1. CCE Kanpur
2. CCE / CC / (Appeal) Allahabad
3. Chief Commissioner of Central Excise / Customs. Kanpur
4. Adv. / Consult. Sl. Brijendra Singh, Adv  
601, Vishvachal, Kaurambhi,  
Sahibabad, Ghaziabad (UP)
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
13. M/s Lex Site Com. Ltd., Mumbai
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NB(SM)

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

E/Appeal No. 542/99-NB(SM)

(Arising out of Order-in-Appeal No. 311-CE/Appl/KNP-II/98 dated 16.11.98 passed by the Commissioner of Customs & Central Excise (Appeals), Allahabad)

M/s. Rosa Sugar Works

Appellants,  
Reptd. by Sh. Bipin Garg, Adv.

Versus

CCE, Kanpur

Respondent,  
Reptd. by Sh. M.D. Singh, SDR

Coram: Shri V.K. Agrawal, Member (T)

FINAL ORDER No. A/291/01/NB CS/M/

Per V.K. Agrawal:

In this appeal filed by M/s. Rosa Sugar Works the issue involved is whether the Capital goods Credit under Rule 570 of the Central Excise Rules is available in respect of plates, bars and rods falling under Chapter 72 of the Tariff.

2. Shri Bipin Garg, learned Advocate, submitted that the Appellate Tribunal in their own case vide Final Order No. A/894/2000-NB(DB) dated 12.10.2000 has allowed the Capital goods Credit on the impugned goods. He, further, mentioned that again the Tribunal vide Final Order No. A/277/2000-NB dated 29.12.99 had allowed the Capital goods Credit to them. In addition, reliance was also placed by him in the case of J.K. Cement Works vs. CCE, Jaipur, 2000 (36) RLT 447 and CCE, Jaipur vs. J.K. Cement Works, 2000 (36) RLT 451.

3. Countering the submissions, Shri M.D. Singh, learned SDR, submitted that these items were used by the

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Appellants for repairing the damaged parts of machinery, storage tank, boilers, etc. and as such these were not components/spare parts and accessories of Sugar Mill machinery: that the Tribunal in the case of Lloyds <sup>Metals &</sup> ~~was~~.

Engineers Ltd vs CCE, Nagar, 1999 (100) ELT 499 did not grant stay and directed the applicants therein to freeze the entire disputed amount in their Modvat account without realisation or to deposit Rs.7 lakhs in case they did not have balance in Modvat account.

4. I have considered the submissions of both the sides. The Tribunal in the Appellants own two cases has allowed the Capital goods Credit in respect of the impugned items following the decision in the case of Simbhadli Sugar Mill, Final Order No. A-776-777/98-NB dated 8.9.98. Following the ratio of the Tribunal's decision in their own cases, the appeal filed by them is allowed and the impugned Order is set aside.

(V.K. AGRAWAL)  
MEMBER (TECHNICAL)

Dated 15th February, 2001

RK