

NOTICE UNDER SECTION 130 (1) OF THE CUSTOMS ACT, 1962/35-C(1) OF THE  
CENTRAL EXCISE SALT ACT, 1944.

CUSTOMS, EXCISE AND GOLD (CONTROL) APPELLATE TRIBUNAL

WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI - 110066.

BENCH

F.No. E/2341/00/NB(SM) Dated 1/3/2001

From : The Registrar,  
CEGAT, New Delhi.

To, *M/s Punjab Concast Steels*  
*Prop Nahar International Ltd,*  
*Focal Point, Ludhiana (Punjab)*

In the Matter of :-

M/s Punjab Concast Steels APPELLANT  
Vs.

CCE Chandigarh

RESPONDENT

I am directed to transmit herewith a certified copy of Final Order No. A/308/01/NB(SM)

Dated 20/2/2001

passed by the Tribunal under Section 129-B of the Customs Act, 1962, 35-C(1) of the Central  
Excise & Salt Act, 1944.

Copy to :-

1. Respondent :

CCE Chandigarh

*lu*  
Assistant Registrar

NB(SM)

2. Advocate/Consultant : *Sh. Kulvinder Singh, Adv*  
*for Appellant.*

3. C. C./C.C.E. (APPEAL) : Chandigarh

4. Asst. Registrar, ERB, CEGAT, Calcutta.

5. Asst. Registrar, SRB, CEGAT, Chennai.

6. Asst. Registrar, WRB, CEGAT, Mumbai.

7. Director of Publication, Customs & Central Excise, C. R. Building, I.P. Estate, New Delhi.

8. Centax Publication (P) Ltd. 1512, Bhisham Pitamah Marg, Opp. Sachdeva P. T. College,  
Defence Colony, New Delhi.

9. M/s. Cen-Cus Publication, C-7, Main Market, Vasant, Vihar, New Delhi.

10. M/s Capital Law House, 500/7-N, Pandav Road, Vishwas Nagar, Delhi-32

11. M/s. Deeparchie Publications, M-93, Marg-44, Saket, New Delhi.

12. The U.S. (Judicial), CBEC, Min. of Finance, Dept. of Revenue, North Block, New Delhi.

13. J. C. D. R.

14. S. D. R. - NB(SM)

15. Library, CEGAT, New Delhi.

16. Bar Association.

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19. Hon'ble Members (1) *Sh. VK Agrawal, M(T)*  
(2)

20. *Website*

*lu*  
Asst. Registrar  
NB(SM)

**In the Custom, Excise & Gold (Control) Appellate Tribunal  
New Delhi**

E/2341/00-NB(SM)

APPEAL NO.....OF 19 (.....)

ARISING OUT OF ORDER IN ORIGINAL/APPEAL NO.

724/CE/CHD/2k dt. 18-4-2k ~~CA 244/2000~~ DATED.....

COMMISSIONER (APPEALS) CENTRAL EXCISE  
PASSED BY.....  
CHANDIGARH

Date of decision. 16-2-2001.....

M/S PUNJAB CONCAST STEELS.....APPELLANT (S)

Represented by Sh./Smt. KULVINDER SINGH,  
ADVOCATE

**VERSUS**

.....RESPONDENT (S)  
CCE CHANDIGARH

Represented by Sh./Smt. M.D.SINGH, SDR

CORAM :

.....  
SH. V.K.AGRAWAL, MEMBER (TECHNICAL)  
.....

To be referred to the Reporter or not?

FINAL ORDER NO. A/308/01/NB (G/M)

Per. V.K.AGRAWAL:.....

In this appeal, filed by M/s Punjab Concast Steels, the issue involved is whether Modvat Credit under Rule 57A of the Central Excise Rules was available to them on the strength of the invoice issued by dealers without mentioning the rate of duty and amount of duty in words and on the basis of invoice issued by unregistered dealer.

2. shri Kulvinder Singh, ld. Advocate, mentioned that the Appellants availed of Modvat Credit of the duty paid on inputs on the strength of invoices issued by various wholesale dealers during July and August, 1994; that all the dealers, except M/s BDA Steels Ltd, got themselves registered with the Department in the month of July, 1994 itself; that he is not pressing the prayer for allowing Modvat Credit on the strength of invoices issued by M/s BDA Steels Ltd as they did not get themselves registered with the Department. He then submitted that the Assistant Commissioner had examined the invoices which clearly contained the particulars as required under Notification NO. 15/94-C.E. (N.T.) dt. 30-3-94; that the credit had been disallowed on the sole ground that invoices did not contain the rate and amount of duty in words also as required under the said Notification; that rate and amount of duty had been mentioned in figures; that as held in Algis Chemical Industries Ltd. Vs. C.C.E., Aurangabad, 1999(106) ELT 492 (T), the Modvat Credit is not disallowable even if the duty paying documents lack in certain particulars which are curable and there is no dispute about the inputs having been received.

He also mentioned that Modvat Credit had also been disallowed in certain cases on the ground that the quantity was not mentioned; that once the dealer had given the details of invoice no. and particulars of payment of duty was not disputed, such procedural lapses which could be verified by the Department should not be a ground to disallow Modvat Credit. He finally submitted that the Commissioner (Appeals) had gone beyond the scope of the show-cause notice and Adjudication Order, in holding that copies of invoices issued by manufacturers to dealers were not available to substantiate the missing particulars and to verify the fact of having passed on the correct amount of duty; that it was not necessary for them to produce those invoices and in any case, it was required under law for the registered dealer to send the invoices for verification at the end of the month and no show-cause notice had been issued to the dealers for wrongly passing of Modvat Credit.

3. Countering the arguments Shri M.D.Singh, Ld. S.D.R., submitted that Notification No. 15/94 (NT) clearly provided that the invoice should contain the rate and the amount of duty both in words and

figures; that as the rate and amount of duty were not mentioned in words, the conditions specified in Notification has not been complied with and accordingly the Modvat Credit was not admissible to them. He relied upon the decision of the Larger Bench of the Tribunal in the case of Balmer Lawrie Co. Ltd. Vs. CCE Kanpur, 2000(116) ELT 364 and CCE New Delhi Vs. Avis Electronics Pvt. Ltd 2000(117) ELT 571 wherein it was held that insistence of documents evidencing payment of duty on inputs as prescribed by Rules is not a technicality to be complied with for availing Modvat Credit and that when a particular thing is directed to be performed in a manner prescribed by Rules, it should be performed in that manner itself.

4. I have considered the submissions of both the sides. M/s BDA Steels Ltd. had issued the Gate Passes, after 3-7-94 and admittedly they have not got themselves registered with the Department, the Appellants are not eligible to avail of the modvat credit On the basis of invoice issued by M/s B.D.S. Steels Ltd. Denial of Modvat credit to this extent is upheld. In

respect of invoice issued by other dealers, namely M/s Metallic Alloys ~~And~~ M/s Almet Alloys, the finding of the Assistant Commissioner was that the invoice issued by them did not contain rate and amount of duty in words. It has not been the case of the Department that rate and amount of duty were not mentioned at all on the invoice. These were mentioned only in figures. No doubt Notification No. 15/94 provides that the invoice containing rate and amount of duty both in words and figures shall be the document for the purpose of availing of modvat credit. Mere nonmention of rate and amount in words will not disentitle them for availing the modvat credit as substantive compliance of the condition specified in the Notification has been made.

5. The Modvat Credit has also been disallowed to the Appellants in respect of invoices issued by M/s ~~Durga~~ Durga Chemicals Agency and M/s Singhania Chemical Agency as the quantity of goods cleared by the manufacturer to these dealers was not mentioned on the invoice. Again the invoice carry the details of Sl. No. and dt. of the invoices under which the goods were cleared by the manufacturers to the dealers. Mere

ommission of quantity will not make the Appellants ineligible ~~to~~ for availing the Modvat Credit. The Appellants are, therefore, eligible to avail of Modvat credit on the basis of invoice issued by these four dealers. The appeal is thus partly allowed.

(V.K.AGRAWAL)

MEMBER (TECHNICAL)

Sunita

20-2-2001