

GRAM : CEGCANAL

REGISTERED/A.D

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

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

Appeal No. E/2815/200 - NB (SM) BENCH NB (SM)

Dated : 30/1/2001

CEGAT
NEW DELHI
To,

M/s Pragati Paper Industries Ltd.,
Village Khem. P.O. Kala Amb
Distt. Sirmaur (H.P)

In the matter of :

M/s Pragati Paper Industries Ltd., Appellant
vs.
C.C.E. Chandigarh Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/134/2001 - NB (SM)
Dated : 11-1-2001 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 Chandigarh
2. CCE/CC/(Appeal) Chandigarh
3. Chief Commissioner of Central Excise / Customs. New Delhi
4. Adv. / Consult. Shri R. S. Pandey, constt.,
SK. 102, Shastri Nagar
Ghaziabad (U.P)
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, Bishm 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. M/s cen-cus publication.

Asstt. Registrar

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

APPEAL NO. E/2815/2000-NB OF 19 (.....)

ARISING OUT OF ORDER IN ORIGINAL/APPEAL NO.

60/DIR/P&PR/2000 DATED 13.6.2000

PASSED BY the Commissioner (Appeals)
of Central Excise, Chandigarh

Date of decision 11.1.2001

M/s. Pragati Paper Industries Ltd/ APPELANT (S)

Represented by Sh./Smt. R.S. Pandey,
Consultant

VERSUS

Commissioner of Central Excise, Chandigarh RESPONDENT (S)

Represented by Sh./Smt. H.R. Bheema Shankar
SDR

CORAM:

Shri. P.S. Bajaj

Member (Judicial)

To be referred to the Reporter or not?
FINAL ORDER NO. A/134/DI/NB/GSM

Per P.S. Bajaj

This appeal has been filed by the appellants against the impugned order in appeal dated 13.6.2000 passed by the Commissioner (Appeals) vide which he had affirmed the order-in-original of the Deputy Commissioner confirming

the demand of Rs.1,19,226/- and imposing the penalty of Rs.15,000/- on them.

2. The facts giving rise to this appeal are briefly summed up as under:

The appellants availed the modvat credit of Rs.1,19,226/- without filing any prior declaration as required under Rule 57 T of the rules, in respect of the capital goods received on 25.7.94. They filed the declaration only on 18.10.94 after the lapse of 85 days. They however requested for condonation of delay on the ground that they were ignorant of an appropriate law regarding filing of declaration, but the same was rejected by the Assistant Commissioner vide order dated 20.6.96. The appellants were issued show cause notice for recovery of Rs.1,19,226 the credit of which was taken by wrongly and penalty was also proposed to be imposed upon them. After getting their reply to that notice, wherein they only pleaded that they were new in the industrial field and were not aware of the law regarding the submissions of the declaration before receipt of the capital goods, Deputy Commissioner confirmed the demand of Rs.1,19,226/- and also imposed penalty of Rs.15,000/- on them. This order of the Deputy Commissioner was affirmed by the Commissioner (Appeals) through impugned Order-in-

Apparently there had been gross violation of principles of natural justice resulting in the miscarriage of justice. Therefore the impugned order of the Commissioner (Appeals) deserves to be set aside on this ground alone without going into the merits.

5. Consequently, the impugned order of the Commissioner (Appeals) is set aside and the case is sent back to him for redeciding the same on merits after hearing the appellants. The appeal of the appellants accordingly stands allowed by way of remand.

(Pronounced in the Court)

(P.S. Bajaj)
Member(Judicial)

Dt:11.1.2001
ss