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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/362 /2011-363 /2011 - EX[DB] WITH
E/S/429-430/2011-EX

Date 07/07/2011

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S SWATI BISCUIT MANUFACTURING CO.,
54, GOVT. INDUSTRIAL ESTATE, NEAR UPTRON
ESTATE, PANKI, KANPUR, (U.P.)

M/S SWATI BISCUIT MANUFACTURING CO., Appellant

Vs

C.C.E. KANPUR Respondent

STAY ORDER NO. 697-698/2011-EX

I am directed to transmit herewith a certified copy of **Final order No.554-555/ 2011 EX|DB|** dated 04-7-11 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
C.C.E. KANPUR
117/7, SARVODAYA NAGAR,
KANPUR 208005.

2. Adv. / Consult

3. C.D.R
4. Bar association. CESTAT. New Delhi
5. Director Publications. Customs. Excise. I.P. Estate. New Delhi
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. Taxmann Allied Service Pvt Ltd.. 59/32. New Rohtak Road. New Delhi - 110005
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Harvana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file
14. HON'BLE PRESIDENT.
15. MR. OM PRAKASH SHYAMDASANI-PARTNER C/O
M/S SWATI BISCUIT MANUFACTURING CO.,
54, GOVT. INDUSTRIAL ESTATE, NEAR UPTRON ESTATE,
PANKI, KANPUR, (U.P.)

Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI PRINCIPAL BENCH, COURT NO. I

Excise Stay Application No. 429-430 /2011- Ex(BR)
Excise Appeal No. 362 - 363 /2011- Ex(BR)

M/s. Swati Biscuit Manufacturing Co. Appellant
Mr.Om Prakash Shyamdasani, partner

Vs.

Commissioner of Central Excise Respondent
Kanpur

Appearance:
Shri R.K. Monga, Co. Representative for the Appellants
Shri N. Pathak, DR for the Respondent

CORAM:

Hon'ble Mr. Justice R.M.S. Khandeparkar, President
Hon'ble Mr. M. Veeraiyan, Member (Technical)

Date of Hearing/decision : 4.7.2011

STAY **ORAL ORDER NO. 697-698/2011-EX**

Per Mr. Justice R.M.S. Khandeparkar (for the Bench):

As we propose to dispose of the appeals themselves applications are disposed of without insisting for pre-deposit while directing the Registry to place the appeals for final hearing forthwith.

(Justice R.M.S. Khandeparkar)
President

(M. Veeraiyan)
Member(Technical)

ss

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI PRINCIPAL BENCH, COURT NO. I

Excise Appeal No. 362 - 363 /2011- Ex(BR)

[Arising out of Order-in-Appeal No. 580-581/CE/APPL/KNP/2010 dated 29.11.2010 passed by the Commissioner of Central Excise, Kanpur]

For approval and signature:

Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri M. Veeraiyan, Member (Technical)

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1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? : Yes
2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? : No
3. Whether Their Lordships wish to see the fair copy of the Order? : Seen
4. Whether Order is to be circulated to the Departmental authorities? : Yes

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M/s. Swati Biscuit Manufacturing Co.
Mr.Om Prakash Shyamdasani, partner — Appellant

Vs.

Commissioner of Central Excise
Kanpur — Respondent

Appearance:
Shri R.K. Monga, Co. Representative for the Appellants
Shri N. Pathak, DR for the Respondent

CORAM:

Hon'ble Mr. Justice R.M.S. Khandeparkar, President
Hon'ble Mr. M. Veeraiyan, Member (Technical)

Date of Hearing/decision : 4.7.2011

FINAL **ORAL ORDER NO.** 554-555/2011-EX

Per Mr. Justice R.M.S. Khandeparkar (for the Bench):

These appeals are being heard in terms of order passed in Stay Application Nos. 429-430/2011.

2. Heard. Undisputedly the issue involved in these appeals relates to dutiability of sugar syrup which is intermediate product used in the manufacture of biscuits and similar issue had arisen in the matter of M/s. K.N. Bakers Pvt. Ltd. vs. CCE, Kanpur in appeal No. E/1034-1036 of 2010 and in similar set of facts, the orders passed by the lower authority similar to the impugned order had been set aside taken into consideration the decisions of the Apex Court in the matter of Hindustan Zinc Ltd. vs. CCE, Jaipur reported in 2005 (181) ELT 170 (SC) and M/s. Moti Laminates – 1995 (76) ELT 241 (SC) as well as Board Circular No. 780/13/2004-CX dated 12th March 2004 and the matter had been remanded for reconsideration. Accordingly, the impugned order is liable to be set aside and matters herein to be remanded to be disposed of afresh along with the matters in K.N. Bakers Pvt. Ltd. case.

3. Accordingly, the appeal are allowed. The impugned orders are hereby set aside. Matters are remanded to the Adjudicating AUthority for reconsideration of the issue in accordance with the observations made in the order passed in the appeal of M/s. K.N. Bakers Pvt. Ltd.

(supra), as in accordance with provisions of law, along with the matter in M/s. K.N. Bakers Pvt. Ltd. Appeals stand disposed of, as above.

(Justice R.M.S. Khandeparkar)
President

(M. Veeraiyan)
Member(Technical)

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