

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

Appeal No. E/504 /2011-505 /2011 - EX[DB] WITH
ES/593-594/2011-EX

Date 14/07/2011

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

To :
M/S RISHI BAKERS PVT. LTD.,
25-B, CO-OPERATIVE INDUSTRIAL ESTATE, DADA
NAGAR, KANPUR (U.P.)
M/S RISHI BAKERS PVT. LTD.,

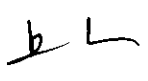
Appellant

Vs
Respondent

C.C.E. KANPUR

STAY ORDER NO. 729-730/2011-EX

I am directed to transmit herewith a certified copy of Final order No.608-609 2011 EX[DB] dated 11-7-11
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 *SH. R.K. MONGA,*
for APPELLANT

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New Delhi
6. M/s Centax Publications 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. SHRI PRAKASH CHAND TALREJA, DIRECTOR OF,
M/S RISHI BAKERS PVT. LTD.,
25-B, CO-OPERATIVE INDUSTRIAL ESTATE, DADA NAGAR, 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. 593 & 594/2011- Ex(BR)
Excise Appeal No. 504 & 505 /2011- Ex(BR)**

M/s. Rishi Bakers P. Ltd.
Mr. Prakash Chand Talreja, Director

Appellants

Vs.

Commissioner of Central Excise
Kanpur

Respondent

Appearance:

Shri R.K. Monga, Com. Representative for the Appellants
Shri I. Baig, DR for the Respondent

CORAM:

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

Date of Hearing/decision : 11.7.2011

STAY **ORAL ORDER NO. 729-730/2011-EX**

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

Heard the learned advocate for the appellants and DR for the respondents. As we propose to dispose of the appeals themselves, and hence the applications are disposed of without insisting for pre-deposit while directing the Registry to place the appeals for final hearing forthwith.

Applications stand disposed of.

(Justice R.M.S. Khandeparkar)
President

(Rakesh Kumar)
Member(Technical)

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

Excise Appeal No. 504 & 505 /2011- Ex(BR)

[Arising out of Order-in-Appeal No. 589-590/CE/APPL/KNP/2010 dated 8.12.2010 passed by the Commissioner of Central Excise (Appeals), Kanpur.]

For approval and signature:

Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri Rakesh Kumar, 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? | See |
| 4. Whether Order is to be circulated to the :
Departmental authorities? | J. |
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M/s. Rishi Bakers P. Ltd.
Mr. Prakash Chand Talreja, Director

Appellants

Vs.

Commissioner of Central Excise
Kanpur

Respondent

Appearance:

Shri R.K. Monga, Com. Representative for the Appellants
Shri I. Baig, DR for the Respondent

CORAM:

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

Date of Hearing/decision : 11.7.2011

FINAL ORAL ORDER NO. 608-609/2011-EX

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

These appeals are being heard and are being disposed of in view of order passed today in Stay Application Nos. 593 & 594 /2011.

2. Heard the learned advocate for the appellants and DR for the respondents and perused the records.

3. In view of the fact that the issue involved in the appeal relates to the dutiability of sugar syrup which is intermediate product used in the manufacture of biscuits and similar issue having arisen in the matter of M/s K.N. Bakers Pvt. Ltd., vs. CCE, Kanpur in Appeal No. E/1150-1151/2010 and in similar set of facts, the orders passed by the lower authorities similar to the impugned order has been set aside taking 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 reported in 1995 (76) ELT 241 (SC) as well as Board Circular No. 780/13/2004-CX dated 12.03.2004, the impugned order need to be set aside and matter remanded for reconsideration. Accordingly, the appeals are allowed, the impugned order is hereby set aside and matters are remanded to the adjudicating authority to decide afresh alongwith the matter in M/s K.N. Bakers Pvt. Limited.

4. Accordingly, the appeals 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, alongwith the matter in M/s K.N. Bakers Pvt. Ltd. Appeals stand disposed of, as above.

(Justice R.M.S. Khandeparkar)
President

(Rakesh Kumar)
Member(Technical)

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