14

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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/692 /2006 & E/3760/2006- EX[DB] Date **03/02/2012**

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

To :
SNEH SILICATE INDUSTRIES.
139/1, KONDLI KALAN, CHHINDWARA-MP

SNEH SILICATE INDUSTRIES. Appellant

Vs

CCE,BHOPAL Respondent

I am directed to transmit herewith a certified copy of **Final order No. A/79-80/ 2012 EX|DB|** dated 31-1-12 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
CCE,BHOPAL & vice-versa.
48, ADMINIATRATIVE AREA,
ARERA HILLS, HOSHANGABAD
ROAD.

462011

2. Adv. / Consult
MR.T.C.NAIR, CONSTT
P.O. BLDG. 2ND FLOOR. ANDHERI KURLA ROAD, J.B.NAGAR, ANDHERI(EAST)
MUMBAI.

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-3
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 (Haryana)
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

Assistant Registrar
(Excise Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Court No.III

E/Appeal Nos. 692/2006

(Arising out of order in original No.35-36/Commr/CEX/05 dated 29.11.2005 passed by the Commissioner of Customs & Central Excise, Bhopal)

Date of Hearing: 13.1.2012

For Approval and signature:

Hon'ble Mr Archana Wadhwa, Member Judicial
Hon'ble Mr.Mathew John, Technical Member

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 would be released under Rule 27 of the CESTAT (Procedure) rules, 1982 for publication in any authoritative report or not?	Yes
3.	Whether their lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	Yes

M/s Sneh Silicate — Appellants

Vs

CCE, Bhopal — Respondent

E/Appeal Nos. 3760/2006

(Arising out of order in appeal No.192/CEBPL/06 dated 24.8.06 passed by the Commissioner of Customs & Central Excise (Appeals) , Bhopal)

CCE, Bhopal — Appellant

Vs

M/s Sneh Silicate — Respondent

Appeared for the Appellant: Shri T.C. Nair, Advocate
Appeared for the Respondent: Shri Nitin Pathak, , AR

Coram: **Hon'ble Mrs. Archana Wadhwa, Member(Judicial)**
Hon'ble Shri Mathew John, Member (Technical)

FINAL ORDER No. A/79-80/2012-EX (BR)

Per Mathew John:

There are two appeals being considered in this proceeding. Appeal Nos. E/692/2006 is filed by the Sneh Silicate Industries and E/3760/2006 is filed by Revenue where Sneh Silicate Industries is the Respondent. Both the orders deal with the same issue but for different periods. In the first of the impugned orders the issue is decided against the assessee and in the second of the impugned orders the issue is decided in favor of the assessee.

2. The assessee was engaged in the business of manufacturing sodium silicate using Soda Ash and Scrubber liquor supplied by Hindustan Lever Ltd. Chhindwara. They procure Silica and bleaching powder from the market and use it as raw material along with the material supplied by HLL. They were claiming exemption from excise duty on sodium silicate as per provisions of Notification 214/86-CE dated 25-03-2006.

3. Revenue was of the view that the assessee could have availed exemption under notification 214/86-CE only if all the raw materials were supplied by the person getting goods manufactured from them ~~person~~ and in this case two of the four main raw materials required were procured by the assessee. Revenue felt that the assessee could not have availed the exemption. There is also a charge that the assessee did not declare the production, removal and value of sodium silicate in their monthly returns and therefore the extended period of 5 years can be invoked for demanding duty payable. Two Show Cause notices issued for the period 22-02-2000 to 31-03-2003 and 01-04-2004 to 31-12-2004 were adjudicated by the Commissioner confirming duty demanded and imposing equal amount of penalty. A Show Cause Notice on the same issue issued for the period 01-01-2005 to 30-09-2005 was confirmed by the Assistant Commissioner of Customs with

penalty but on appeal the order was set aside by the Commissioner (Appeal). Both the orders are challenged before the Tribunal.

4. The Counsel for the assessee submits that notification 214/86-CE nowhere stipulates that for availing exemption all the raw materials should be supplied by another person. The Counsel points out that soda ash constituted 59.76% of the cost of final product, silica and bleaching powder constituted 6.18% of the cost and labor charge and profit contributed 34.6% of the cost. The reason that silica sand and bleaching powder contribute more by weight should not be a reason to deny the exemption.

5. The Authorized Representative for Revenue relies on the Explanation in the notification and stresses the point that substantial tonnage of the material required for manufacture of sodium silicate was procured by the assessee and hence they would not be eligible for the exemption under notification 214/86-CE.

6. We have considered arguments on both sides. We find that Revenue is relying on the explanation in Notification 214/86-CE which reads as under:

> *Explanation.—For the purposes of this notification, the expression "job work" means processing or working upon of raw materials or semi-finished goods supplied to the job worker, so as to complete a part or whole of the process resulting in the manufacture or finishing of an article or any operation which is essential for the aforesaid process.*

7. ~~We have considered arguments on both sides.~~ We note that exemption 214/86-CE is available subject to the condition that the person supplying the raw material uses the goods manufactured in further manufacture of dutiable products. There is no case of the Revenue that this cardinal condition is violated. We donot see any specific bar in the explanation given in the notification that no

material should be procured by the job-worker. We also find that this issue has been considered by the Tribunal in Shakti Insulators and Wires Ltd reported at 2002 (149) ELT 365 (Tri-Mum) where in it was decided that the exemption will be available even in situations where some minor materials procured by the job-worker is used. In fact in most situations some ~~input~~ materials like consumables procured in the factory of manufacture will be used directly or indirectly in undertaking the manufacturing process and that can not be a reason to deny the exemption. We are also not in agreement with the argument that the issue as to which is the main raw material should be decided by the weight of the materials involved. In the circumstances we do not see any merit in the contention that the exemption is not available in the present case.

8. Consequently the appeal filed by the assessee is allowed and that filed by Revenue is rejected.

(Pronounced in the Court)

(Archana Wadhwa)
Member(Judicial)

(Mathew John)
Member(Technical)

MPS*