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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/2373/2005 - EX[DB] Date **13/03/2012**

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

To :
C.C.E. LUCKNOW
7-A, ASHOK MARG, LUCKNOW.

C.C.E. LUCKNOW Appellant

Vs

M/S RAMGARH CHINI LTD Respondent

I am directed to transmit herewith a certified copy of **Final order No.A/279/ 2012 EX|DB|** dated 12-3-12 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

b L
Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
M/S RAMGARH CHINI LTD
(PROP. DALMIA CEMENT
(BHARAT) LTD.), RAMGARH,
TEHSIL - MISHRIKH, DISTT.
SITAPUR (U.P.)
2. Adv. / Consult
MR.V. LAXMIKUMARAN
B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029
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

b L
Assistant Registrar
(Excise Appeal Branch)

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

Excise Appeal No. 2373 of 2005

[Arising out of Order-in-Appeal No. & 178-CE/2005 dated 30.3.2005 passed by the Commissioner of Central Excise & Service Tax (Appeals), Lucknow]

For approval and signature:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Mathew John, 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?	:	No
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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Commissioner of Central Excise. Lucknow — Appellants

Vs.

M/s. Ramgarh Chini Ltd. — Respondent

Appearance:
Shri N. Pathak, SDR for the Appellants
Shri Amit Jain, Advocate for the Respondent

CORAM:

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

Date of Hearing/decision : 28.02.2012

FINAL **ORAL ORDER NO.** A/279/2012-EX(BR)

Per Archana Wadhwa (for the Bench):

Being aggrieved with the order passed by Commissioner (Appeals), Revenue has filed the present appeal. After hearing both sides, we find that the short issue involved in the present appeal is as to whether baggase which comes into existence as residue and waste material during the course of manufacture of sugar is required to be treated as final product inasmuch as the same is being cleared by the appellant without payment of any Central Excise duty, & the provision of Rule 6(b)(3) are required to be invoked against them.

2. The appellate authority by relying upon the precedent decision of the Tribunal in the case of Kichha Sugar Ltd. and in the case of M/s. Mahalakshmi Sugar Mills Ltd. [2004 (161) RLT 514] has held that the provisions of Rule 57CC of Erstwhile Central Excise Rules are not attracted in case of clearance of baggase. It stands noticed in the impugned order of Commissioner (Appeals) that Revenue's appeal against the Tribunals order in respect of Kiccha Sugar Ltd. stands dismissed by the Hon'ble Supreme Court vide its Order dated 22.2.04. The provisions of Rule 6 are parimateria of erstwhile Rule 57CC.

As such, by following the same, he allowed the benefit to the respondents. Hence, the present appeal by the Revenue.

3. In their grounds of appeal, Revenue has again reiterated their stand that baggase is a final product and is exempted from payment of duty, in which case, the provisions of Rule 6(3)(b) of Cenvat Credit Rules, 2002 would apply. It stands contended that Hon'ble Supreme Court summarily dismissed the department's Civil Appeal in the case of Kiccha Sugar Ltd. and it cannot be held to be affirmation of view of the Tribunal, being non-reasoned and non-speaking order as was held by the Hon'ble Supreme ~~High~~ Court. They have accordingly prayed for setting aside the impugned order. They have accordingly prayed for setting aside the impugned order.

4. We find no merits in the above contention of the Revenue. Admittedly, the issue stands decided by the Tribunal not only in the case of Kiccha Sugar but also in the case of Balrampur Chini Mills Ltd. and in the case of Shakumbari Sugar & Allied Industries Ltd. It is seen that Revenue took the matter before the Hon'ble Supreme Court and in the case of Balrampur Chini Mills vide their order dated 21.7.2010, the Revenue's appeals were again dismissed by following the earlier order of the Hon'ble Supreme Court in the case of Kiccha Sugar and Shakumbari Sugar & Allied Industries Ltd.

5. Inasmuch as the issue is decided by the Hon'ble Supreme Court, we find no reason to interfere in the impugned order of Commissioner (Appeals).

(Pronounced in the open Court)

(Archana Wadhwa)
Member(Judicial)

(Mathew John)
Member(Technical)

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