Upper Ganges Sugar and Industries Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-13-2004

Reported in : (2004)(117)LC830Tri(Delhi)

Judge : P Bajaj

Appellant : Upper Ganges Sugar and Industries

Respondent : Cce

Judgement :

1. In this appeal which has been filed against the order in original, the question which falls for consideration is as to whether the appellants are entitled to have single Central Excise registration or not for their two units. The adjudicating authority has denied the single registration on the ground that although the two units are located in close proximity but they have separate gate and are separated by railways line.

2. I have heard both the side and gone through the record. From the record, it is quite evidence that the appellants have two units in the same premises - in one unit they are manufacturing VP sugar, (levy and free) and molasses, while in the other unit, which is known as their Distillery unit, they are manufacturing Ethyl Alcohol (Denatured). They are having common accounts, balance sheets and common Board of directors. The molasses manufactured by them in one unit are being transferred to another unit where the same are being utilized as inputs for the manufacture of Ethyl alcohol. In the face of these facts, in my view, the

adjudicating authority has wrongly denied single Central Excise registration to the appellants by overlooking the Trade Notice issued under the provisions of Rule 223 of the Central Excise Rules on the strength of a Board letter F No. 1012/69-CX dated 2.5.1981. Para 2 of the said Notice reads as under: It is informed that when the different sections or departments of the same factory of the manufacture are located in adjoining premises or are in premise merely separated by a road or a railways line or a canal, etc and botli the portions (premises) are known as and form part of the same factory, it is not necessary for these separated portions (premises) in the above manner to be registered separately and only one registration application (R-1) and ground plan by the manufacturer in such causes and so also on the Registration Certificate (R-2) by the Registration Authority.

3. In similar facts and circumstances, the Tribunal had followed the above said instructions of the Board in the case of Kisan Saghkari Chini Mills Ltd. v. CCE Allahabad 2004 (113) ECR 687 wherein also the assessee had two units - one of sugar and other of distillery situated in the same premises but separated by a brick wall and allowed the single registration for both the units. Similarly in Balrampur Chini Mills Ltd. v. CCE Allahabad(T) and Dhampur Sugar Mills Ltd. v. CCE Meerut identical facts and circumstances, as are in the present case, the Tribunal allowed the single registration of the two units. The law laid down in these cases had been also followed in Shravasti Kisan Sahkari Chini Mills Ltd. v. CCE Allahabad . The Apex Court has also in the case of Grauer &, Well (India) Ltd v. CCE Baroda] taken the view that the units of the same company situated on a common plot of land and goods manufactured by one unit forming input of the other unit should be treatable as one factory.

4. Therefore, keeping in view the law laid down in the above referred cases and the Board letter referred to above, both the units of the appellants i.e. sugar and distillery are to be treated as one unit and are entitled to the single Central Excise registration for both the units. The impugned order of the adjudicating authority is aside and the appeal of the appellants is allowed with consequential relief, as per law.