

Circular No. 634/25/2002-CX
17-4-2002

F. No. 390/122/2001-JC

Government of India

Ministry of Finance (Department of Revenue)

Central Board of Excise & Customs, New Delhi

Subject : List of important CEGAT Orders favourable to the Department - Regarding.

I am directed to enclose a list containing the gist of important CEGAT Orders wherein the Department has been able to secure a favourable decision for necessary action at your end.

HEAD NOTES

In respect of CEGAT Final Order No. 239/2001-B dated 30-4-2001

In Appeal No. E/3322/2000-B [2001 (131) E.L.T. 704 (Tribunal)]

In the case of :	M/s. Pragati Silicons P. Ltd. v. CCE, Delhi-III.
Issue :	Classification of Name Plates, Emblems, Labels for use on Motor Vehicles - Whether these items are classifiable under Chapter 87 of CETA as parts of Motor Vehicles or under sub-heading 3926.90 as other articles of plastics.
Held :	Classification - Name Plates, Emblems, Labels made of plastics for use on Motor Vehicles are correctly classifiable under sub-heading 3926.90 and not under Chapter 87 of CETA as these items are not to be treated as parts of motor vehicles since Motor Vehicle is a complete vehicle without affixation of emblems on Name Plates.

In respect of CEGAT Final Order No. 248/2001-B dated 4-5-2001

In Appeal No. E/2676/94-B [2001 (131) E.L.T. 697 (Tribunal)]

In the case of :	CCE, Chandigarh v. Gabriel India Ltd.
Issue :	Classification of Bushes and Thrust Washers - Whether these are classifiable as parts of the machine for which these are specifically designed or under Heading 84.83 as Plain Shaft Bearing.
Held :	Classification - Bushes & Thrust Washers - not classifiable under Heading 84.83 of CETA, 1985 as these are not plain shaft bearing and the heading does not cover bushes or washers. In absence of ring of anti-friction metal or other material, the impugned product cannot be classified under heading 84.83 - The impugned goods would be classified under the same heading in which the machines for which they are used are classifiable.

In respect of CEGAT Final Order No. 242 to 244/2001-B dated 1-5-2001

In Appeal No. E/761-763/98-B [2001 (135) E.L.T. 1331 (Tribunal)]

In the case of :	Fedders Lloyd Corporation Ltd. v. CCE, Mumbai-II
Issue :	Whether clearance of duty paid parts of air-conditioners after testing and affixing brand name for installation of split air-conditioner at buyers premises amounts to manufacture of split air-conditioners.
Held :	The appellants receive condensing unit and cooling unit from their other units and procure other parts from the market. These parts are tested and cleared after affixing brand name. Therefore, the split air-conditioner in unassembled form came into existence at the appellants' premises and they are liable to pay Central Excise duty. The activity amounts to manufacture of excisable goods.

In respect of CEGAT Final Order No. 254/2001-B dated 21-5-2001

In Appeal No. E/950/95-B [2001 (131) E.L.T. 604 (Tribunal-LB)]

In the case of :	CCE, Mumbai-I v. Unicon Connectors (P) Ltd.
Issue :	Classification of insulated wire/cable fitted with connectors - Whether under heading 85.44 or 85.22/85.29. Classification claimed under 85.22/85.29 on the ground manufacture is only of connectors which are thereafter fitted with wires purchased from market.
Held :	Insulated wires and cables fitted with connectors would fall under 85.44 holding that classification cannot depend upon the fact as to who manufactures the raw material/inputs.

In respect of Final Order No. 1182/2001(SZB-Chennai) dated 20-7-2001

In Appeal No. E/Misc./68/01 [2002 (142) E.L.T. 66 (Tri. - Chennai)]

In the case of :	Sri Chandra Tobacco Ltd. v. CCE, New Delhi
Issue :	(1) <i>Locus standi</i> - Whether a person who was appointed Director subsequent to filing of appeal is having <i>locus standi</i> to file the appeal on behalf of the company? (2) Whether the question of <i>locus standi</i> can be raised at a subsequent occasion i.e., after restoration of the appeal filed by the same person.
Held :	(1) <i>Locus standi</i> - The person filing an appeal on behalf of a company must be having a restoration passed by the Board of Directors under Company Act, 1956 appointing him as Director to contest the case on behalf of the company. In the absence of such restoration appeal cannot be entertained [para 10]. (2) The question of <i>locus standi</i> of the person can be raised even after admission/restoration of appeal.

In respect of CEGAT Final Order No. 360/2001-B dated 14-6-2001

In Appeal No. E/4564/94-B [2001 (132) E.L.T. 694 (Tribunal)]

In the case of :	M/s Sunaren Industries v. CCE, Rajkot
Issue :	(1) Whether by use of brand name of Marketing Company, namely LMS said to be the abbreviation of later father's name would affect availing of the benefit of Notfn. No. 175/86. (2) Whether two companies are related persons.
Held :	(1) Affixing of Brand Name 'LMS' belonging to a Marketing Company ----- Exemption under Notification 175/86 not available. (2) Mutuality of interest in the shape of holder of 25% share in Marketing Company ----- supply of entire production and interest free loans to them ----- Bearing all sales promotion Expenses by Manufacturing Company ----- Marketing & Manufacturing Company are related persons.
Gears :	Classifiable under heading 84.83 as per Note 2 (a) to Section XVI of CETA.

In respect of CEGAT Order No. 399/2001-B dated 2-8-2001

In Appeal No. E/S/1046/2001-B in E/1383/2001-B [2002 (142) E.L.T. 65 (Tri. - Del.)]

In the case of :	M/s Special Machines v. CCE, Delhi-III
Stay :	Filed against a letter issued by Supdt. (Adj.) - Whether becomes an appealable order before the Tribunal -
Held :	Supdt.'s letter was not an appealable order before the Tribunal being not passed by the adjudicating authority i.e., the Commissioner - Appeal for stay of the letter rejected.