Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO. 3

Excise Appeal No. 663 of 2007

(Arising out of OIO-1-3/COMMR-AH-/07 dated 18/01/2007 passed Commissioner of Central Excise-AHMEDABAD-II)

C.C.E.-Ahmedabad-ii ....**Appellant**
Custom House... First Floor,
Old High Court Road, Navrangpura,
Ahmedabad, Gujarat - 380009

VERSUS

Baroda Textile Ltd ......**Respondent**
186/B, Ashima Complex, Karannagar, Taluka-Kadi,
Mehsana , Gujarat

WITH

Excise Appeal No. 664 of 2007 - C.C.E.-Ahmedabad-ii Vs. Arun G Chechani

Excise Appeal No. 665 of 2007 - C.C.E.-Ahmedabad-ii Vs. Anil V Rajyaguru

Excise Appeal No. 666 of 2007 - C.C.E.-Ahmedabad-ii Vs. Ashok G Chechani

Excise Appeal No. 667 of 2007 - C.C.E.-Ahmedabad-ii Vs. Shree Sanand Textile Industries Ltd

APPEARANCE:
Shri Tara Prakash, Deputy Commissioner (AR) for the Appellant
Shri Rahul Gajera, Advocate for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. C.L. MAHAR

Final Order No. A/ 11574 - 11578/2023

DATE OF HEARING: 23.03.2023
DATE OF DECISION: 21.07.2023

RAMESH NAIR

Heard Shri Tara Prakash, Learned Deputy Commissioner (AR) appearing on behalf of the Revenue and Shri Rahul Gajera, Learned Advocate appearing on behalf of Respondents M/s. Sanand Textile Ltd and Shri Ashok Chechani. However, none appeared on behalf for other assessees, despite of several opportunities given for the hearing.

The undisputed fact in the present case is that the Respondent units consumed indigenous and imported raw material namely POY in the manufacture of PTY which was cleared under CT-3/AR -3 A procedures applicable to 100% EOU. However, it is specifically admitted in the appeal memo that separate show cause notice demanding duty on the finished goods namely PTY has been issued. In case of duty demand of the finished goods, separate proceeding was initiated and the matter as remanded by the CESTAT Mumbai vide order dated 08.10.2009 in case of Sanand Textile Industry Ltd & Ors. The learned AR confirmed that even in the matter of other appeals in the present case the issue of demand of duty on the finished goods has been remanded by the Mumbai Tribunal to the Adjudicating Authority.

We find that since the duty demand in the present case being on raw material is connected to the clandestine removal of finished goods wherein such raw material was used. In our view this matter also needs to go back to the Adjudicating Authority for passing a fresh order along with denovo adjudication as per direction of Mumbai CESTAT in the appeal as per Order No . A/290-291/WZB/MUM/2009/CESTAT –Mumbai.

Accordingly, we set aside the impugned order and remand the matter to the Adjudicating Authority for passing the denovo order. Appeals are allowed by way of remand to the Adjudicating Authority.

(Pronounced in the open court on 21.07.2023)

RAMESH NAIR
MEMBER (JUDICIAL)

C.L.MAHAR
MEMBER (TECHNICAL)

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