

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**SOUTH ZONAL BENCH****CHENNAI****ST/CO/51/2009 & ST/308/2009**

(Arising out of Order-in-Appeal No.77/2009 dated 27.02.2009 passed by the Commissioner of Central Excise (Appeals), Madurai)

Commissioner of Central Excise, Tirunelveli

Appellant

Vs

M/s.Subburaj Textiles Mills Pvt Ltd

Respondent

~~ST/S/186/2009~~ & ST/310/2009

(Arising out of Order-in-Appeal No.47/2009 dated 24.02.2009 passed by the Commissioner of Central Excise (Appeals), Madurai)

M/s.Subburaj Textiles Mills Pvt Ltd

Appellant

Vs

Commissioner of Central Excise, Tirunelveli

Respondent

Appearance

Shri.B.Balamurugan, AC (AR) For the Assessee
Ms.J.Ragini, Advocate For the Revenue

CORAM :**Hon'ble Ms. Sulekha Beevi C.S. Member (Judicial)****Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)**Date of hearing / decision : **08.08.2017****FINAL ORDER No. 41652-41653/2017****Per Bench**

The issue involved in these cases are whether the demand raised on the commission paid to foreign agent under Business Auxiliary Services is sustainable or not.

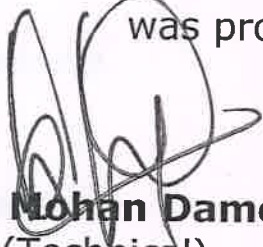




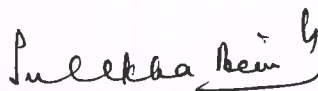
2. The issue for the period prior to 18.4.2006 stands settled by the judgement in the case of 'Indian National Ship Owners Association Vs Union of India reported in 2009 (13) STR 235 (Bombay).'

3. In regard to the period after 18.4.2006 to March 2007, the Ld.Counsel for assessee submitted that being textile manufacturers they are covered by the Notification 14/2004 relied in the judgement of Texyard International Vs CCE, Trichy F.O.No.4105-41055/2014 dt.31.12.2014. Following the same we hold that demand is unsustainable. The appeal No.ST/310/2009 filed by assessee is allowed. The department has filed appeal against non-imposition of penalty. Consequently department appeal No.308/2009 dismissed. Cross Objection disposed accordingly.

(Operative portion of the order
was pronounced in open court)



(Madhu Mohan Damodhar)
Member (Technical)



(Sulekha Beevi C.S.)
Member (Judicial)

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