

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/2529/2004

Date 11/10/2007

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

To :
M/S DHOWN WOOLLEN MILLS
127, INDUSTRIAL AREA-A, LUDHIANA

M/S DHOWN WOOLLEN MILLS

Appellant

C.C.E. LUDHIANA

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 509/07-EX. dated 25-9-07
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

B. S. H.
Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

C.C.E. LUDHIANA

CENTRAL EXCISE HOUSE, 'F' BLOCK, RISHI NAGAR,
LUDHIANA 141001 (PUNJAB)

2. Adv. / Consult

SH. HARI OM ARORA,
B-XIX-810/A, CIVIL LINES
PRINCE HOSTEL LANE, LUDHIANA

3. C.D.R.

~~4. J.C.D.R.~~

5. Bar association, CESTAT, New Delhi

6. M/s. Deeparchi Publications, M-93, marg. 43. saket, New

7. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah

8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301

9. R. Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -

10. Nidheshak publications, I.P.Estate, new Delhi

11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,

12. Co, Law Institution

13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070

14. Office Copy

15. Guard file

B. S. H.
Assistant Registrar
(Excise Appeal Branch)

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

Excise Appeal Nos. 2529 of 2004

[Arising out of Order-in-Appeal No. 184/CE/APPL/Ldh/2004 dated 9.3.2004 passed by Commissioner of Central Excise (Appeals), Ludhiana.]

For approval and signature:

Hon'ble Dr. T.V. Sairam, Member (Technical)
Hon'ble Mr. P.K. Das, Member (Judicial)

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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? | Yes |
| 2. Whether it should be released under Rule 27 :
of the CESTAT (Procedure) Rules, 1982 for
publication in any authoritative report or not? | Yes |
| 3. Whether Their Lordships wish to see the fair :
copy of the Order? | See |
| 4. Whether Order is to be circulated to the :
Departmental authorities? | Yes |
-

M/s. Drown Woollen Mills

Appellant

Vs.

Commissioner of Central Excise
Ludhiana

Respondent

Appearance:

None for the Appellant

Shri Sanjay Kumar, DR for the Respondent

CORAM: Hon'ble Dr. T.V. Sairam, Member (Technical)
Hon'ble Mr. P.K. Das, Member (Judicial)

Final ORDER NO. 509/07EX

Dr. T.V. Sairam (for the Bench):

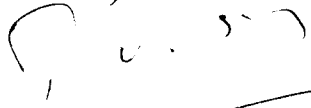
When the matter was called, none represented the appellants. Heard the Learned DR and perused the record. The impugned order in appeal dated 9.3.04 passed by the learned Commissioner has taken note of the fact that the issue involved is of a seizure of 790 Kg of blended yarn containing more than 1/6th by weight of non-cellulosic fibre being unaccounted for in their Rg I register. In this order the Learned Commissioner has reduced redemption fine imposed by the adjudicating authority from Rs.10,000/- to Rs.5,000/- and personal penalty from Rs.25,000/- to Rs.10,000/-. While doing so he has made the following observations:

“During the course of appeal personal hearing was attended by the advocate who reiterated the submissions made earlier and submitted the brief of the case. I have carefully gone through the records and facts of the case and observe that the issue involved is of a seizure of 790 kg of blend yarn containing more than 1/6 by weight of non cellulosic fibre content being unaccounted for in their RG I register. Vide O-I-O No. 7/ADC/CE/88 dated 14.6.88 the seized yarn was confiscated and RF Rs.20,000/- penalty Rs.25000/- was imposed on them. They went in appeal against the order of Additional Collector in CEGAT and the case was remanded back for re-adjudication with the direction to take note of letter dated 25.5.88 and provide opportunity to appellants. The Adjudicating Authority took note of


letter dated 25.5.88 and discussed all the points in the instant O-I-O. The appellants made use of personal hearing and the advocate submitted reply on 9.12.99. After going through all the points the Adjudicating Authority discussed the same in detail. I agree with the findings of Adjudicating Authority. The tests reports of the chemical examiner once in routine and then retesting as sought by the appellant are congruent and contention of the appellant that 2.5% variation be allowed does not warrant any change in previous orders as the synthetic staple fibre even after retesting remains more than 1/6 of the total contents. The Tribunal had remarked that the burden lies on the appellants to prove that the impugned items consists of less than 1/6th of the non cellulosic fibre and manufactured out of waste. The appellants could not provide any evidence to satisfy the Adjudicating Authority. Though the appellant has produced certificates given by M/s. United Hosiery Factory and M/s. Navnit Text Corporation to the effect that the Nylon Top sliver supplied to the appellant was manufactured out of nylon waste but there is no evidence available on record to show that the same sliver was used in the seized goods. Moreover the quantity of seized goods is 790 kgs. Whereas as per letter dated 14.7.88 of M/s. United Hosiery Factory, quantity of only 222 kgs. manufactured out of material supplied by them to the appellant was lying with the appellant. In view of above no benefit could be given to the appellant on the basis of these certificates."

2. In view of the above reasoning of the Learned Commissioner wherein *he* has already considered their grounds and slided down both penalty and redemption fine, we do not find any merit in the appeal. The appeal is, therefore, dismissed.

(Dictated in the open Court)



(Dr. T.V. Sairam)
Member(Technical)


(P.K. Das)
Member(Judicial)

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