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

Appeal No. E/2750-51/2007

Date 07/02/2008

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

2. M/S. GALUNDIA TEXTILES PVT. LTD.
F-244-45, RIICO INDL. AREA,
BHILWARA (RAJ.)

To :
M/S VALLENTINO SYNTEX PVT LTD
P1 & 2. INDUSTRIAL AREA. OPP ITI BHILWARA(RAJ)

M/S VALLENTINO SYNTEX PVT LTD

Appellant

C.C.E. JAIPUR II

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 40-41/08 Excise dated 4-2-08
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

C.C.E. JAIPUR II

N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME,
JAIPUR 302005.

2. Adv. / Consult

MR.K.K ANAND

A-5.BASEMENT,LAJPAT NAGAR-III NEW DELHI-24

3. S.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


Assistant Registrar
(Excise Appeal Branch)

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi**

COURT NO. II

Excise Appeal No. 2750-2751 of 2007

[Arising out of the Order-in-Appeal No. 434-435 (HKS) CE/JPR-II/2007 dated 16/07/2007 passed by The Commissioner (Appeals-II), Central Excise, Jaipur.]

For Approval and signature :

Hon'ble Shri S.S. Kang, Vice President

Hon'ble Shri P. Karthikeyan, Member (Technical)

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 would 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 Department Authorities? : *Yes*

Valentino Syntex Pvt. Ltd.]	Appellant
Galundia Textiles Pvt. Ltd.]	

Versus

CCE, Jaipur

Respondent

Appearance

Shri K.K. Anand, Advocate – for the appellant.

Shri V.K. Agarwal, Authorized Representative (DR)– for the Respondent.

CORAM : Hon'ble Shri S.S. Kang, Vice President
Hon'ble Shri P. Karthikeyan, Member (Technical)

DATE OF HEARING : 04/02/2008.

Final Order No. 40-41/08-EX Dated: 4-2-08

Per. P. Karthikeyan :-

The orders impugned in the captioned appeals affirmed demand of Central Excise Duty and the interest due thereon in respect of clearances of grey fabrics made between April and September 2005. The appellants had cleared grey fabrics without payment of duty for further manufacture into man-made fabrics by job workers.

2. The appellants are registered for manufacture of processed fabrics. They cleared such fabrics on payment of duty. The grey fabrics found to have been cleared without payment of duty, were processed into man-made fabrics by job workers. These were received back by the appellants and cleared on payment of duty after undertaking various processes including export packing. The lower authorities have held the view that grey fabrics themselves were final products of the

assessee and should have been cleared from the factory on payment of duty. Only inputs, as such, or partially processed inputs could be sent to a job worker for further processes or completing the manufacturing process. In the instant case, the appellants received duty paid yarn, took credit of duty paid and wove them into grey fabrics. Grey fabrics are the final products of the assessee. No manufacturing process is undertaken on the man-made fabrics received from the job worker. Therefore, the job work procedure envisaged under Rule 4 (5) (a) of Cenvat Credit Rules, 2002 (CCR) was not applicable to the movement of grey fabrics to the job worker. Duty demand on grey fabrics is affirmed on the basis that manufacturing processes were carried out on the final product grey fabrics after its manufacture.

3. Heard both sides. We have studied the case records and considered the submissions. Rule 4 (5) (a) of CCR is reproduced below :-

“The CENVAT credit shall be allowed even if any inputs or capital goods as such or after being partially processed are sent to a job worker for further processing, testing,

repair, re-conditioning or any other purpose, and it is established from the records, challans or memos or any other document produced by the assessee taking the CENVAT credit that the goods are received back in the factory within one hundred and eighty days of their being sent to a job worker and if the inputs or the capital goods are not received back within one hundred eighty days, the manufacturer shall pay an amount equivalent to the CENVAT credit attributable to the inputs or capital goods by debiting the CENVAT credit or otherwise, but the manufacturer can take the CENVAT credit again when the inputs or capital goods are received back in his factory.”

As rightly argued by the learned counsel for the appellants, Rule 16B of Central Excise Rules empowers the Commissioner to permit an assessee to remove excisable goods which are in the nature of semi-finished goods, for carrying out certain manufacturing processes, to some other premises and to bring back such goods to his factory, without payment of duty, and allow these goods to be removed on payment of duty.

4. We find that in the instant cases, the inputs received by the appellants were duty paid yarn and the finished goods received from the job worker and cleared by the appellants were man-made fabrics. These fabrics were cleared by the appellants on payment of duty. Therefore, the movement of grey fabrics to the job worker and the return of man-made fabrics to the appellants were in accordance with the above statutory provisions. As the appellants had cleared the man-made fabrics on payment of duty no demand can be raised on the appellants in respect of duty payable on the intermediate products grey fabrics. Therefore, the impugned demands are not in accordance with law. Accordingly, we set aside the impugned orders and allow these appeals.

(Dictated and pronounced in open court)

(S.S. Kang)
Vice President

(P. Karthikeyan)
Member (Technical)

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