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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/5686/2004, 5688 /04,5689/2004 & 5697/2004 - EX[DB]   Date 24/12/2008

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

To :
M/S RAJ TEXTILE
OPP. ITI PUR ROAD, BHILWARA (RAJ)

M/S RAJ TEXTILE   Appellant
Vs
C.C.E. JAIPUR-II   Respondent

I am directed to transmit herewith a certified copy of **Final order** No.945-948/2008-**EX[DB]** dated 03-12-08 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
   NCRB, STATUE CIRCLE, C-SCHEME, JAIPUR
2. Adv. / Consult
   M~~R VIPUAL RAHEJ~~A SH. HANMANT BHJAJ, ADV.
   A-5, BASEMENT LAJPAT NAGAR III, NEW DELHI-110024

3 S.D.R
~~4 J.C.D.R.~~
5 Bar association, CESTAT, New Delhi
6 M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017
7 M/s Centax Publictions (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New - 3
8 Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)
9 Ragnuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT. U.P.
10 Nidheshak publications, I.P.Estate, new Delhi
11 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagarava Road, T. Nagar,Chennai
13 Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
14 Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-1
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Assistant Registrar
(Excise Appeal Branch)

P.T.O. - 2

~~M.B.SYNTHETICS~~

M/S HIMA SHU SUITINGS
40. MURLI TOWER. BHILWARA (RAJ)

16. M/S JANTA FAB
POKH AREA. BHILWARA (RAJ)

21. M/S WESTERN SUITINGS (P) LTD.
104. BALAJI MARKET. BHILWARA (RAJ)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R. K. Puram, New Delhi

COURT-II

Date of hearing/decision: 14.11.2008

Excise Appeal Nos. 5686, 5688, 5689 & 5697 of 2004

M/s Raj Textile & Others ...Appellant
[Rep. by Sh. Hemant Bajaj, Advocate for the appellant]

Vs.

CCE, Jaipur Respondent
[Rep. by Sh. C.S. Rajput, DR for the respondent]

Coram: Hon'ble Mr. D.N. Panda, Member (Judicial)
Hon'ble Mr. Rakesh Kumar, Member (Technical)

Final Order No. 945 - 948/08-EX

Per D.N. Panda.

Excise Appeal case No.5688 of 2004, 5689 of 2004, 5697 of 2004 and 5686 of 2004 were listed in Sl. No. 4 of the supplementary list under regular matter for hearing. Learned Counsel Shri Hemant Bajaj appearing on behalf of these four appellants submitted that Excise Appeal No. 5687 of 2004 being of similar nature and he being the engaged Counsel for that case, all these four appeals may be heard together and disposed. He submitted that the principal appellant M/s Global Syntex Limited (BHL) lost its appeal for non-compliance to the stay order passed by the Tribunal on 7.2.2005. All these five appeals are consequential appeals and in these appeals penalty of Rs. 25,000/- (Rupees twenty five thousand only) each were levied for violation of Rule 26 of Central Excise Rules, 2001. Department made its case only on the confessional statement of the appellants without corroborative evidence being on record. These appellants have less chance to succeed. Therefore, he prays that the penalty of Rs.25,000/- each imposed on the appellant may be reduced to the amount already directed by stay order which is Rs. 10,000/- each. He also submits that except the matter i.e. Appeal No. 5687 of 2004 not listed today as aforesaid, in respect of other four appeals listed today were in compliance with stay order for which these four appellants deserve consideration for disposal of appeal. However, he submits that the matter not listed today has also met compliance and is similar to matters listed today. He undertakes to satisfy the authorities below as to compliance and undertakes that if there was no compliance, the appeal not listed as stated above shall stands dismissed.

2. Learned DR appearing for Revenue submits that when the goods purchased by the five appellants from the principal, appellant i.e. M/s Global Syntex Limited (BHL) Limited have escaped duty these appellants were rightly penalised. Therefore, the penalty order in respect of the four appellants listed today may be confirmed. So far as the matter not listed today, that appeal shall be subjected to the direction of the Tribunal as per undertaking of the learned Counsel.

3. Heard both sides and perused the record.

4. We were able to trace from page 26 dealing with M/s Raj Textiles, page 23 dealing with M/s Himanshu Suitings, same page dealing with M/s M.B. Synthetics (not listed today), page 22 dealing with M/s Western Suiting and page 19 dealing with M/s Janta Fab of the order of adjudication that the department found evidence of conscious abetment of these appellants to the evasion. However, for

the reason that the duty liability having been imposed on M/s Global Syntex Limited (BHL), these appellants may not be dealt deterently. To prevent recurrence of offence to cause evasion, we are of the firm belief that a mild dose of penalty against all the five appellants should be imposed and that too to the extent of Rs. 10,000/- (Rupees ten thousand only) on each would be just and proper. In the facts and circumstances of the case, while passing the stay order, the Tribunal had directed pre-deposit of Rs. 10,000/- each in respect of all the five appellants. That should be adjusted against present direction if such amounts were paid by appellants.

5. With the aforesaid observation we direct that all the five appellants should suffer penalty of Rs. 10,000/- (Rupees ten thousand only) each and the order of adjudication gets modified to the extent of the quantum of penalty on the four appellants only, whose cases were listed today as stated above. Similar fate shall also be for one matter not listed today as stated above, if the appellant satisfies the learned adjudicating authority that the said appellant had complied with the stay order of the Tribunal.

6. In the result, the appellants get partial relief as indicated above and their appeals partly allowed. They are not entitled to any consequential relief.

(Dictated and pronounced in the open Court)

[D.N. Panda]
Judicial Member

[Rakesh Kumar]
Technical Member

[Pant]