

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

Appeal No. E/5039/2004 - EX[DB]

Date 22/10/2008

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

To :
M/S BANSWARA TEXTIL MILLS LTD.
INDUSTRIAL AREA, DOHAD ROAD, BANSWARA
M/S BANSWARA TEXTIL MILLS LTD.

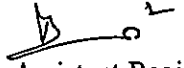
Appellant
Vs
Respondent

C.C.E JAIPUR

EX[DB] dated 15-10-08

I am directed to transmit herewith a certified copy of Final order No. 770/08-

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

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. 46, Saket, New Delhi 110017

7 M/s Centax Publications (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 Raghuraman'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

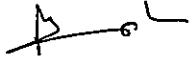
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thvagarava Road, T. Nagar, Chennai

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

15 Office Copy

16 Guard file


Assistant Registrar
(Excise Appeal Branch)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH
NEW DELHI, COURT NO.I**

Excise Appeal No. 5039 of 2004

[Arising out of Order-in-Original No.386(RM)CE/JPR-II/2004 dated 7.7.2004
passed by the Commissioner (Appeals-II) Customs & Central Excise, Jaipur]

Date of Hearing/ decision: 15.10.2008

For approval and signature:

Hon'ble Mr. Justice S.N. Jha, President

Hon'ble Mr. M. Veeraiyan, 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.	<i>NO</i>
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	<i>NO</i>
3	Whether Their Lordships wish to see the fair copy of the Order?	<i>Seen</i>
4	Whether Order is to be circulated to the Departmental authorities?	<i>Yes</i>

M/s Banswara Textile Mills Limited

Appellant

Vs.

CCE, Jaipur

Respondent

Appearance:

Mr. Hemant Bajaj, Advocate for the Appellant

Mr. S.N. Srivastava, DR for the Respondent

CORAM: Mr. Justice S.N. Jha, President
Mr. M. Veeraiyan, Member (Technical)

FINAL ORDER 770/08-ec

Per M. Veeraiyan:

This appeal is against the order of the Commissioner (Appeals) upholding demand of Rs. 1,42,726/- which was confirmed by the order of the original authority vide order dated 13.03.2003.

2. Heard both sides.

3. Learned Advocate submits that there was a demand of Rs. 23,26,626/- confirmed by order of the original authority dated 25.02.2003 which included the present disputed amount of Rs. 1,42,726/-. The appeal relating to the earlier order has travelled upto the Tribunal and it was decided against the appellant. The appellant filed Appeal No. 21/2005 before the Hon'ble High Court of Rajasthan at Jodhpur and the High Court set aside the orders of the Tribunal, Appellate Commissioner and adjudicating authority with liberty to the adjudicating authority to take proceedings against the assessee as may be permissible under the law after giving opportunity of hearing to the assessee, in the light of the observations in the said order. In other words, the present dispute is only a part of the dispute already covered by the earlier proceedings which stands disposed of as per the order and direction of the Hon'ble High Court dated 01.11.2006.

4. As the present dispute stands covered by the order of the High Court relating to a larger dispute, we hold that the present appeal is infructuous. Therefore, the orders of the Commissioner (Appeals) and original authority in so far as the same relate to confirmation of demand of Rs. 1,42,726/- are set aside subject to any proceedings that may be initiated in pursuance of the order of the Hon'ble High Court of Rajasthan.

[Dictated and pronounced in the open Court].

[Justice S.N.Jha]
President

[M. Veeraiyan] /
Member (Technical)

[Pant]