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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/5504/2004 - EX[DB] Date 13/08/2009

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

To :
M/S SHAM DYERS
B-25, SEC-4, NOIDA

M/S SHAM DYERS Appellant
Vs
C.C.E. NOIDA Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 514/2009-**EX[DB]** dated 04-8-09

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. NOIDA
   C-56/42, SECTOR-62, NOIDA-201307
2. Adv. / Consult
   MR.K.K ANAND
   A-5,BASEMENT,LAJPAT NAGAR-III NEW DELHI-24

3 C.D.R
~~4 J.C.D.R.~~
5 Bar association, CESTAT, New Delhi
6 Director Publications, Customs, Excise. I.P. Estate, New Delhi
7 M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8 Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9 Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10 M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)
11 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
12 Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
13 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
14 Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
15 LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
16 Office Copy
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18. HON'BLE PRESIDENT

Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Excise Appeal No. 5504 of 2004

(Arising out of Order-in-Appeal No. 286/CE/APPL/NOIDA/04 dated 17.09.2004 passed by the Commissioner (Appeals), Central Excise, Noida).

DATE OF HEARING : 04.08.2009
DATE OF DECISION : 04.08.2009

FOR APPROVAL AND SIGNATURE :

HON'BLE MR. JUSTICE R.M.S. KHANDEPARKAR, 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 ?	NO
2.	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not ?	NO
3.	Whether their Lordships wish to see the fair copy of the Order ?	Seen
4.	Whether Order is to be circulated to the Departmental Authorities?	Yes

M/s Sham Dyers .... **Appellant**
(Rep by Sh. K.K. Anand, Adv.)

VERSUS

CCE, Noida .... **Respondent**
(Rep. by Sh. K.P. Singh, DR)

CORAM : HON'BLE MR. JUSTICE RMS KHANDEPARKAR, PRESIDENT
HON'BLE MR. M. VEERAIYAN, MEMBER (TECHNICAL)

FINAL ORAL ORDER NO. 514/09 – EX

PER M. VEERAIYAN :

This appeal is directed against the order of the Commissioner (Appeals) no. 286/CE/APPL/NOIDA/04 dated 17.09.2004.

2. Heard both sides.

3. The relevant facts are that, the appellant is an independent processor and received grey cotton fabrics falling under Chapter Heading 52.07 and cleared processed fabrics on payment of excise duty. They availed the benefit of Notification No. 06/02-CE(NT) dated 01.03.2002 and took deemed credit while paying the duty on the finished processed fabrics cleared by them.

4. The dispute involved is that, whether deemed credit shall be available while duty is being paid on the processed fabrics. This issue is no more *res integra* as the same has been decided by the Tribunal in the cases of **Damini Printers (P) Ltd. vs CCE, Noida,** 2005 (191) ELT 653; **CCE, Ahmedabad vs Suzuki Synthetics,** 2008 (222) ELT 279; and **M/s Delite Processors vs CCE, Noida,** and in Final Order No. 423/09 dated 05.05.2009 in Excise Appeal No. 5306 of 2004. In all these cases, it has been held that, in spite of the fact that the grey fabrics are exempted, the deemed credit shall be available at the time of clearance of processed fabrics as the inputs like the yarn in the grey fabrics and the chemicals used in the processing of the fabrics have suffered duty.

5. In view of the above, for the detailed reasons recorded in the cases cited above, we allow the appeal with consequential relief.

(JUSTICE R.M.S. KHANDEPARKAR)
PRESIDENT

(M. VEERAIYAN)
MEMBER (TECHNICAL)

Golay