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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/1870/2009 - EX[DB] Date 21/08/2009
E/S/1934/2009-EX

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

To :
M/S SHREE TEXTILES,
E-21, CHAMBAL INDUSTRIAL AREA, KOTA (RAJ.)
324003.

M/S SHREE TEXTILES, Appellant
Vs
C.C.E. JAIPUR I STAY ORDER NO.823/2009-EX Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 536/2009- **EX[DB]** dated 20-8-09

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. JAIPUR I
N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.
2. Adv. / Consult SH. SANJAY GROVER, ADV.,
E-500, GREATER KAILASH-II
N. DELHI-48
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
17 Guard file
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. 1870 of 2009 with
Excise Stay Application No. 1934 of 2009

(Arising out of Order-in-Appeal No. 63(DK)CE/JPRI/2009 dated 26.03.2009 passed by the Commissioner (Appeals), Customs & Central Excise, Jaipur-I).

DATE OF HEARING : 17.08.2009
DATE OF DECISION : 17.08.2009

FOR APPROVAL AND SIGNATURE :

HON'BLE MR. JUSTICE R.M.S. KHANDEPARKAR, PRESIDENT
HON'BLE MR. B.S.V. MURTHY, 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 ?	
2.	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not ?	
3.	Whether their Lordships wish to see the fair copy of the Order ?	
4.	Whether Order is to be circulated to the Departmental Authorities?	

M/s Shree Textiles .... **Appellant**
(Rep by Sh. Sanjay Grover, Adv.)

VERSUS

CCE, Jaipur-I .... **Respondent**
(Rep. by Sh. K.P. Singh, DR)

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

Final ORAL ORDER NO. 536/09-EX
Stay Order No. 823/09-EX.

PER B.S.V. MURTHY :

The issue involved in this appeal and the stay petition is, whether the appellants are required to reverse the Cenvat credit of Additional Duty of Customs (CVD) on the imported defective nylon tyre cord fabric imported by them and cleared by them after subjecting them to some processes. They have been required to reverse the Cenvat Credit on the ground that, activities undertaken do not amount to manufacture and, therefore, they were not entitled to take Cenvat Credit under Rule 16 of the Central Excise Rules which provides for bringing defective goods for subjecting to different processes. ~~is not applicable.~~ The learned advocate submits that, the Tribunal in its earlier decisions in similar circumstances has held that, once duty is paid on the goods which are cleared after subjecting them to some processes, if the duty is more than the Cenvat credit availed, it amounts to reversal of Cenvat credit and, therefore, there is no need to require the assessee to reverse the Cenvat credit again. Further ~~also,~~ he also submits that, the Hon'ble Supreme Court in the case of **CCE, Vadodara vs Narmada Chematur Pharmaceuticals Ltd.,** 2005 (179) ELT 276 (SC), has held that, where the consequence is revenue neutral, demand for wrong availment of credit quashed by the Tribunal was correct. In view of the above discussion, since the issue is covered by the decision~~s~~ cited by the learned advocate, we find that the appeal

itself can be disposed of. Accordingly, we allow the stay petition
and also the appeal with consequential relief to the appellants.

(JUSTICE R.M.S. KHANDEPARKAR)
PRESIDENT

(B.S.V. MURTHY)
MEMBER (TECHNICAL)

Golay