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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/2995/2006 - EX[DB] Date 29/09/2009

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

To :
C.C.E. RAIPUR
CENTRAL EXCISE BUILDING, DHAMTARI ROAD,
TIKRAPARA, RAIPUR 492001.
C.C.E. RAIPUR Appellant
Vs
M/S UNIWORTH TEXTILES LTD Respondent

I am directed to transmit herewith a certified copy of **Final order No. 722/2009 EX[DB]** dated 17-9-09 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
M/S UNIWORTH TEXTILES LTD
923-945,URLA INDUSTRIAL AREA,RAIPUR(CG)
2. Adv. / Consult
MR.RUPESH KUMAR
46, BANK ENCLAVE, LAXMI NAGAR, DELHI -92
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

Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

COURT NO. II

Excise Appeal No. 2995 of 2006

(Arising out of Order-in-Appeal No.91/RPR-I/2006 dated 7.6.2006 passed by the Commissioner (Appeals), Central Excise, Raipur)

CCE, Raipur — Appellant

Vs.

M/s Uniworth Textiles Ltd. — Respondent

Appearance:

Appeared for Appellant : Shri Sansar Chand, DR

Appeared for Respondent: Shri Rupesh Kumar, Advocate

Date of Hearing: 16.9.2009

CORAM: HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER
HON'BLE MR. RAKESH KUMAR, TECHNICAL MEMBER

FINAL Order No. 722/09-EX dated............

Per D.N. Panda :

Both sides are in agreement today that ld. Commissioner (Appeals) has decided the issue on the basis of Notification No. 55/91-CE dated 25th July 1991. While ld. DR Shri Sansar Chand submits that the Notification No. 55/91-CE dated 25th July 1991 has been rescinded by Notification No. 24/2003-CE dated 31st March 2003. Ld. Commissioner (Appeals) should not have allowed relief to the Assessee, Shri Rupesh Kumar, ld. Counsel submits that the Appellate Authority below has rightly considered the notification and granted relief. He is very fair to submit that if Revenue is aggrieved by interpretation of Section 3 of the Central Excise Act 1944 there shall not be difficulty to raise a plea for decision in accordance with law. Ld. DR also agrees that if ld. Commissioner (Appeals) considers Notification No. 2/95-CE dated 4.1.95 and takes aggregate quantum of duty as envisaged by notification for consideration of the issue involved in the Appeal, Revenue may not be aggrieved. Both sides further agree that if the decision by lower Appellate Authority is made granting fair opportunity to both to plead their defence on the basis of law and evidence, they shall not be prejudiced.

2. Taking into consideration submission of both sides, we are of the belief that both sides shall settle dispute in accordance with law before the lower Appellate Authority placing the position of law, before him for decision of the issue both on merit as well as on technicalities in accordance with law. We have remanded the matter to the ld. Commissioner (Appeals) for the reason that ld. Commissioner has not decided the issue on merit when Revenue has raised the question of applicability of Notification No. 2/95-CE dated 4.1.95 and the Respondent had no opportunity to lead its defence on the contents of that notification.

3. We therefore said as above with the aforesaid observations and ~~we~~ remand the matter to ld. Commissioner (Appeals) to do justice to both the sides and to afford reasonable opportunity of hearing and consider pleading of both sides. We expect a reasoned and speaking order shall be passed by the Authority below taking into consideration of the position of law into account.

4. In the result, the impugned order is set aside remanding the matter to the ld. Commissioner (Appeals).

(Dictated & pronounced in open Court)

(D.N. PANDA)
JUDICIAL MEMBER

(RAKESH KUMAR)
TECHNICAL MEMBER

RM