

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

Appeal No. C/677 /2006 - CU[DB]

Date 17/11/2008

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

To :
M/S OM SAI RAM TRADING CO
9/6517-C, LAL BATI CHOWK,
SUBHASH MOHALLA, DELHI - 110031.

M/S OM SAI RAM TRADING CO

Appellant

C.C.E.FARIDABAD

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. C/599 2008 CU[DB] dated 10.11.08
passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax


Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent

C.C.E.FARIDABAD

NEW CGO COMPLEX, NH-IV, FARIDABAD.

2. Adv. / Consult

MR.PIYUSH KUMAR,ADV

B-25, LAJPAT NAGAR-III, N.DELHI

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, Indrapuram - 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

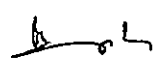
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thvagaraya Road, T. Nagar, Chennai

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-15

15 Office Copy

16 Guard file


Assistant Registrar
(Customs Appeal Branch)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, NEW DELHI
PRINCIPAL BENCH NEW DELHI**

Customs Appeal No.677 of 2006⁶-Customs Branch

[Arising out of common Order-in-Appeal No.50/Cus/App/DLH-IV/2006 dated 26.09.2006 passed by the Commissioner of Customs & Central Excise, New Delhi]

Date of Hearing/ Decision:10.11.2008

For approval and signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)

Hon'ble Mr. P.K. Das, Member (Judicial)

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- | | |
|--|----------------------|
| 1. Whether Press Reporters may be allowed to see 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? | : See Yes |
| 3. Whether Their Lordships wish to see the fair copy of the Order? | : Yes See |
| 4. Whether Order is to be circulated to the Departmental authorities? | : Yes |
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M/s. Om Sai Ram Trading Co.

...Appellants

[Rep. by Shri Amar Gupta, Advocate]

Vs.

CC, Faridabad

...Respondent

[Rep. by Shri A.K. Madan, DR]

CORAM: Hon'ble Mr. M. Veeraiyan, Member (Technical)

Hon'ble Mr. P.K. Das, Member (Judicial)

Final Order No. C/599/08 /Dated:10.11.2008
Per M. Veeraiyan:

By Misc. Order NO.C-35/2008 dated 11.4.2008, ^{it was ordered that} the sample, if it were lying in safe custody of the Department or in case of non-

availability of the sample with the Department, fresh sample drawn should be tested. The sample has been tested and report is as follows:-

"The sample as received is cut-piece of one side black and otherside grey fabric. It is wholly composed of multi-filament yarns of nylon (polyamide) having coating on one side with grey coloured polymeric material (polyurethane type). Coating is not visible with naked eye. It can be seen only by resulting change in colours

Composition is as under

Fabric (Nylon)	= 82.5% by net
Polymeric material (polyurethane type)	= Balance

Sealed remnant returned. "

2. After showing the reports to Id.DR and Id. Advocate, we heard both sides. On perusal of the report, it was submitted by Id. DR that the report is in their favour and, therefore, the appeal filed by the party should be rejected. However, Id. Advocate for the Appellant submits that they would like to make further written submissions in the light of the report of the Chemical Examiner and they should be given opportunity to contest the test report as permissible under the law.

3. After careful consideration, we are of the view that this exercise should be appropriately done by the original authority. Accordingly, we set aside the order of the lower authorities and remand the matter to the original authority. The appellant is directed to furnish written submissions, if any, within 45 days from the receipt of this order and the original authority to decide within 2 months thereafter, after giving

reasonable opportunity of personal hearing to the appellant. The appeal is allowed by way of remand.

4. The test report in original is to be forwarded to the original authority. Registry is directed to take action accordingly.

Order dictated & pronounced in open court on 10.11.2008.

(M. Veeraiyan)
Member (Technical)

(P.K. Das)
Member (Judicial)

Ckp.