

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

Appeal No. E/3810/2005

Date 24/01/2008

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

To :
M/S UMED TEXTILE MILLS PVT LTD
72, HEAVY IND AREA, JODHPUR

M/S UMED TEXTILE MILLS PVT LTD

THE COMMISSIONER OF CENTRAL EXCISE JAIPUR

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 134/2008-SM[BR] dated 26.12.2007
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
THE COMMISSIONER OF CENTRAL EXCISE JAIPUR
NCR BUILDING, C-SCHEME, JAIPUR
2. Adv. / Consult SHRI. HEMANT BAJAJ ADV.
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. 43, saket, New
7. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301
9. R.Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,
12. Co, Law Institution
13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file


Assistant Registrar
(SM Appeal Branch)

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

Excise Appeal No. 3810 of 2005 -SM (BR)

[Arising out of order in appeal No. 524 (HKS)/RPR-I/2005 dated 27.09.2005 passed by the Commissioner of Central Excise (Appeals), Jaipur]

Date of Hearing/ Decision: 26.12.2007

For approval and signature:

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

- | | | |
|--|---|--------------|
| 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? | : | } <i>NO.</i> |
| 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 Umed Textile Mills Pvt. Ltd., Appellant
[Rep. by Mr. Hemant Bajaj, Advocate for the appellant]

Vs.

CCE, Jaipur Respondent
[Rep. by Mr. A. Rastogi, Authorised Representative (DR) for the respondent]

CORAM: Mr. P.K. Das, Member (Judicial)

Final ORDER No. 134/08-SM(BR)

Per P.K. Das:

Heard both sides and perused the records.

2. The issue involved in this matter is as to whether the value of the grey fabric has to be taken into account for the purpose of the Notification No. 25/2003-CE (NT) dated 15.3.2003 for availing cenvat credit as

contended by the department or the value of grey fabrics in processed including the processing charge thereof as claimed by the appellants. It is seen that the Tribunal in the case of M/s B.B. Shah Pvt. Ltd., vs. CCE-II, Jaipur vide Final Order No. 1655-56/07-SM (Br.) dated 26.10.2007 held that the notification was clear enough that it is only the value of the grey fabrics which has to be taken into account for the purposes of allowing modvat credit. It has also been held that extended period of limitation is applicable. Taking into account of the particular facts and circumstances of the case, the Tribunal set-aside for penalties. Respectfully following the decision of the Tribunal in the case of M/s B.B. Shah Pvt. Ltd., the demand of duty is upheld and the penalty is set-aside. The appeal is disposed of in the above terms.

(Order dictated and pronounced in the open Court)

[Pant]

(P.K. Das)
Member (Judicial)