

**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/2182/2006-SM[BR]

Date 18/02/2008

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

To :  
M/S H.B.WOOLTEX (P) LTD  
KABRI ROAD, PANIPAT,

M/S H.B.WOOLTEX (P) LTD

Appellant

Vs  
Respondent

THE COMMISSIONER OF CENTRAL EXCISE ROHTAK  
(HARYANA)

I am directed to transmit herewith a certified copy of Final order No. 304/2008-SM[BR] dated 28.1.2008  
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 ROHTAK  
(HARYANA)  
DELHI-III, VANIJAYA NIKUNJ UDYOG VIHAR,  
PHASE-V, GURGAON (HARYANA)

2. Adv. / Consult

MR.JAGMOHAN BANSAL  
1640/1,SECTOR-40B,CHANDIGARH

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 & SERVICE  
TAX APPELLATE TRIBUNAL,  
WEST BLOCK NO. 2, R.K. PURAM,  
NEW DELHI**

**COURT -II**

**EXCISE APPEAL No. 2182 OF 2006-SM**

[Arising out of Order-in-Appeal No. 99/GRM/RTK/2006 dated 27.03.2006 passed by the Commissioner (Appeals), Central Excise, Gurgaon]

For approval and signature:

Hon'ble Mr. S.S. Kang, Vice President

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 would 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. H.B. Wooltex (P) Ltd.,

Appellants

Vs.

CCE, Gurgaon

Respondent

Appearance:

Shri Bipin Garg, Advocate,

Shri B.S. Suhag, DR, for the respondent,

Coram:

**Hon'ble Mr. S.S. Kang, Vice President**

**Date of Hearing: 23.1.2008**

FINAL ORDER NO. 304/08-SM dated 28.1.08.

**Per S.S. Kang:**

Heard both sides.

2. Appellants filed this appeal against the impugned order whereby the Commissioner (Appeals) confirmed the demand of Rs. 1,31,377/- and imposed penalty.
3. A show cause notice was issued to the appellants on the ground that they were clearing yarn on cones which is dutiable under the guise of yarn on plain-reel hanks which is exempted. The adjudicating authority dropped the proceedings, however, on appeal filed by the Revenue the Commissioner (Appeals) confirmed the demand and imposed penalties.
4. The contention of the appellants is that the demand is raised on the ground that the appellants cleared the yarn on cones to M/s. Lakshmi Trading Co. and in the invoices it has been shown yarn in plain-reel hanks. Contention is that Shri Subhash Yadav of Lakshmi Trading Co. in his statement specifically mentioned that they are receiving both type of yarn from various mills. There is no evidence on record to show that yarn on cones received by Lakshmi Trading

Co. is cleared by the appellants. The appellants are clearing both type of yarn to various customers and, where yarn is cleared on cones appropriate duty has been paid. As there is no evidence on record to show that the appellants cleared yarn on cones under the guise of plain-reel hanks, demand is not sustainable.

5. I have gone through show cause notice. I find that there was an allegation that whatever received by Lakshmi Trading Co. on various dates was yarn on cones whereas the appellants shown clearance as yarn on hanks without payment of duty. The Revenue has not seized the invoices under which yarn was received by Lakshmi Trading Co. Accountant of Lakshmi Trading Co. in his statement submitted that they were receiving yarn on cones and on hanks from various mills. As there is no evidence on record that yarn on cones received by Lakshmi Trading Co. is cleared by the appellants, the demand is not sustainable. Hence, the same is set aside. In view of above appeal is allowed.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)  
VICE PRESIDENT

Dated 28<sup>th</sup> January, 2008

RK