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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/1397/2006-SM[BR] Date 12/06/2008

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

To :
CCE,JAIPUR-II
NCRB STATUE CIRCLE,C,SCHEME,JAIPUR

CCE,JAIPUR-II Appellant
Vs
M/S BOHRA SYNTHETICS P LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 916 /2008 –SM[BR] dated 9.4.2008 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
   M/S BOHRA SYNTHETICS P LTD.
   RIICO INDL AREA,BHILWARA(RAJ)
2. Adv. / Consult SHRI BIPIN GARG ADV.
   B-1/1289-A, VASANT KUNJ NEW DELHI-70
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 Publictions (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)
9. Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 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), Thyagaraya Road, T. Nagar,Chennai 60017
13. Taxindiaonline.com Pvt.Ltd, 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, NEW DELHI
PRINCIPAL BENCH NEW DELHI

Excise Appeal No.1397 of 2006-SM (BR)

[Arising out of Order-in-Appeal No.96(HKS)CE/KPR-II/2006 dated 8.2.2006 passed by the Commissioner of Central Excise (Appeals-II), Jaipur]

Date of Hearing/ Decision:9.4.2008

For approval and signature:

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

1. Whether Press Reporters may be allowed to see 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?	:

CCE, Jaipur-II ...Appellants
[Rep. by S.L. Meena, DR]

Vs.

M/s. Bohra Synthetics P. Ltd. ...Respondent
[Rep. by Shri Atul Gupta, Co. Secretary]

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

Final Order No. 916/08-SM/Dated:9.4.2008

Per P.K. Das:

The Respondents are engaged in the manufacture of Manmade fabrics and exported the same. They filed refund claim in respect of Deemed Credit, lying unutilized, taken on the inputs used in the manufacture of goods exported under Bond. The Dy. Commissioner sanctioned the refund claim. Revenue filed appeal before the Commissioner (Appeals), which was rejected.

3. Ld. DR on behalf of the Revenue submits that the grey fabrics, which were exempted from duty and the main input for producing the processed fabrics have not been declared as eligible input for taking credit in any of the Notification. This implies that Deemed Credit is not available on the grey fabrics when used as input for manufacture of processed fabrics.

4. After hearing both the sides and on perusal of the records, the relevant portion of the order of Commissioner (Appeals) is reproduced below:-

> "Since grey fabric was exempt from Central Excise Duty, the manufacturer of grey fabrics was not in a position to avail actual cenvat credit of the duty paid on yarn used in the manufacture of grey fabrics. That's why the provisions of deemed credit were incorporated in the Rules. I find that yarn, dyes and chemicals have been declared as inputs in the notifications no.53/01 dated 29.06.01 & 6/02 dated 1.3.2003 and cotton fabrics have been declared as final products in the said notification. Though the yarn was not directly used by the processors for processing of final products, the same was contained in the grey fabric used in the processing and this satisfied the condition given in the Rule 57A (2) & Rule 11 of Cenvat Credit Rules, 2002. Therefore, I find that the respondents have correctly availed deemed credit of duty paid on yarn (contained in grey fabrics), dyes, chemicals &

packing material though the yarn was not used directly in the manufacture of final products."

4. It is seen that the Tribunal in the case of Damini Printers (P) Ltd. Vs. CCE, Noida reported in 2005 (191) ELT 653 (Tribunal-Delhi) held that grey fabrics brought into factory for processing not declared as input for the purpose of deemed credit under Notification No.6/2002-CE (NT) issued under Rule 11 of Cenvat Credit Rules, 2002, deemed credit would be available, if declared inputs are contained in final products. It has further been held that declaration of inputs, which are used directly by manufacturer of final products, is not necessary.

5. In view of the decision of the Tribunal in the case of Damini Printers (P) Ltd. (supra), I do not find any reason to interfere the order of the Commissioner (Appeals). The appeal filed by the Revenue is rejected.

Order dictated & pronounced in open court on 9.4.2008.

(P.K. Das)
Member (Judicial)

Ckp.