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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/6125/2004 - EX[DB]

Date 13/07/2009

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

To :
M/S AMRITSAR SWADESHI WOOLLEN
MILLS,AMRITSAR
RAM TIRATH ROAD,AMRITSAR

M/S AMRITSAR SWADESHI WOOLLEN
MILLS,AMRITSAR
Appellant

Vs

C.C.E.JALLANDHAR
Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 460/2009-**EX[DB]** dated 01-7-09 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
   C.C.E.JALLANDHAR
   EXCISE HOUSE,F-BLOCK,RISHI NAGAR,LUDHIANA
2. Adv. / Consult SH. R.L. MEHRA, ADV.,
   M.M. MALVIYA ROAD, AMRITSAR (P.B.)
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
18. HON'BLE PRESIDENT

Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Excise Appeal No. 6125 of 2004

(Arising out of Order-in-Appeal No. 295/ce/APPL/LDH/2004 dated 31.03.2004 passed by the Commissioner (Appeals), Customs & Central Excise, Ludhiana).

DATE OF HEARING : 01.07.2009
DATE OF DECISION : 01.07.2009

FOR APPROVAL AND SIGNATURE :

HON'BLE MR. JUSTICE R.M.S. KHANDEPARKAR, PRESIDENT
HON'BLE MR. M. VEERAIYAN, MEMBER (TECHNICAL)

1.	Whether Press Reporters may be allowed to see the order for publication as per Rule 27 of the 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 ?	Yes
3.	Whether their Lordships wish to see the fair copy of the Order ?	Seen
4.	Whether Order is to be circulated to the Departmental Authorities?	Yes

M/s Amritsar Swadeshi Woollen Mills .... Appellants
(Request for adjournment)

VERSUS

CCE, Ludhiana .... Respondent
(Rep. by Sh. B.S. Suhag, DR)

CORAM : HON'BLE MR. JUSTICE RMS KHANDEPARKAR, PRESIDENT
HON'BLE MR. M. VEERAIYAN, MEMBER (TECHNICAL)

(Final) **ORAL ORDER NO.** 460/09-EX

PER M. VEERAIYAN :

There is a request for adjournment which is not being acceded to as the appeal relates to the year 2004 and that we find that there is no challenge to the demand on merits.

2. Heard the learned DR and perused the record.

3. The relevant facts are that, the appellants are engaged in the manufacture of blankets and the fabrics emerge~~s~~ as intermediate product. The appellants were availing the exemption for the blankets. Show cause notice dated 07.09.1995 was issued demanding duty on fabrics for the period 16.03.1995 to 25.05.1995 on the ground that the conditions of Notification No. 67/95-CE are not fulfilled as the end products 'Blankets' are exempted. It is claimed by the appellants that after issue of the show cause notice, they had paid a sum of Rs. 1,58,036.84 and the same was intimated to the Department vide registered letter dated 31.01.1996. The original authority vide order dated 16.10.2001 has confirmed the demand of duty of Rs. 1,63,574/- and there is no reference in the said order to the claim by the appellants about the payment of duty and there is no order of adjustment. It is also seen that they also made submission that they have already paid the duty before the Commissioner (Appeals). While there is a clear finding by the Commissioner (Appeals) that the appellants are not challenging the dutiability of intermediate product, the Commissioner (Appeals) has not accepted the contention that the demand of duty by the original authority is for a second time on the ground that no documentary evidence has been produced before him.

4. Taking into account the facts of the case, we find that the appellants are not disputing duty liability on the fabrics which emerged as intermediate products in the manufacture of exempted blankets. Therefore, the appeal deserves to be rejected as uncontested on merits.

5. However, we would like to add that the claim of the appellants that immediately after issue of the show cause notice they have paid substantial amounts towards the duty liability and the demand by order issued in 2001 is a demand for the second time should be looked into by the Department before taking any coercive action. If the contention of the appellant is correct, then only the balance amount is required to be paid.

6. The appeal is disposed of in the above terms.

(JUSTICE R.M.S. KHANDEPARKAR)
PRESIDENT

(M. VEERAIYAN)
MEMBER (TECHNICAL)

Golay