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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/1052/2006-1055/2006,1121/2006-1129/2006 - EX[DB] Date 18/05/2010

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

To :
C.C.E. JALLANDHAR(HQ. AT CHANDIGARH)
C.R.BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH.
C.C.E. JALLANDHAR(HQ. AT CHANDIGARH) Appellant
Vs
M/S GMP FINISHING MILLS Respondent

I am directed to transmit herewith a certified copy of **Final order** No. 359-371/ 2010 **EX[DB]** dated 06-5-10
passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
M/S GMP FINISHING MILLS
NEAR RAILWAY CROSSING NO-22, AMRITSAR
2. Adv. / Consult
NONE

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 Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
10 Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
11 Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
12 LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
13 Office Copy
14 Guard file
15. HON'BLE PRESIDENT.
16. M/S APOLLO PROCESSORS NEAR CENTRAL JAIL
AJNALA ROAD AMRITSAR

16A. Tax India Online.Com (P) Ltd.
Unit No.1, 2nd Floor, Vasant Aracade, Nelson Mandela Road,
Vasant Kunj, New Delhi-70

P.T.O.-2

Assistant Registrar
(Excise Appeal Branch)

17. M/S AVICHAL TEXTILE MILLS PVT.LTD.
VERKA BAY PASS ROAD B/S VERKA MILK PLANT
AMRITSAR

18. M/S INDRA PROCESSORS NEAR CENTRAL JAIL
AJNALA ROAD AMRITSAR

19. M/S J.P.PROCESSORS PVT.LTD.
BAL KALAN MAJITHA ROAD AMRITSAR

20. M/S ONKAR INTERNATIONAL PROCESSORS PVT.LTD.
GALI BANKE BIHARI BATALA ROAD AMRITSAR

21. M/S T.S. DYEING AND PRINTING MILLS
KASHMIR ROAD VERKA AMRITSAR

22. M/S RUBY WOOLLEN MILLS
BATALA ROAD AMRITSAR

23. M/S S.C. PROCESSORS,
BATALA ROAD, AMRITSAR

24. M/S SHIVA PROCESSORS
BATALA ROAD AMRITSAR

25. M/S SHREE AMBICA PROCESSORS PVT.LTD.
VILLAGE BAL KALAN MAJITHA ROAD AMRITSAR

26. M/S SHREE GANPATI SYNTHETICS
VALLAH ROAD VERKA BYE PASS AMRITSAR

27. M/S. BRAHMPUTRA PROCESSORS PVT. LTD,
BYE PASS NEAR CHOWK FATEHGARH CHURIAN ROAD,
VILL. NANGLI, AMRITSAR

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
BENCH-DB

PRINCIPAL BENCH - COURT NO. I

(1) **Excise Appeal No. E/ 1052/06**
(2) **Excise Appeal No. E/ 1053/06**
(3) **Excise Appeal No. E/ 1054/06**
(4) **Excise Appeal No. E/ 1055/06**
(5) **Excise Appeal No. E/ 1121/06**
(6) **Excise Appeal No. E/ 1122/06**
(7) **Excise Appeal No. E/ 1123/06**
(8) **Excise Appeal No. E/ 1124/06**
(9) **Excise Appeal No. E/ 1125/06**
(10) **Excise Appeal No. E/ 1126/06**
(11) **Excise Appeal No. E/ 1127/06**
(12) **Excise Appeal No. E/ 1128/06**
(13) **Excise Appeal No. E/ 1129/06**

[Arising out of Common Order-in-Original No. 78-99/CE/JAL/2005 dated 30.05.2005 passed by the Commissioner of Central Excise, Jalandhar].

For approval and signature:

Hon'ble Mr. Justice R.M.S. Khandeparkar, President
Hon'ble Mr.Rakesh Kumar, 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?	Yes
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
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

CCE, Jalandhar ...Appellants

Vs.

(1) M/s. G.M.P. Finishing Mills
(2) M/s. Onkar International Processors P. Ltd.
(3) M/s. S.C. Processors
(4) M/s. Ruby Woollen Mills
(5) M/s. Shree Ganpati Synthetic
(6) M/s. T.S. Dyeing and Printing Mills
(7) M/s. Brahmputra Processors P. Ltd.
(8) M/s. Avichal Textile Mills P. Ltd.
(9) M/s. Indra Processors
(10) M/s. Shree Ambica Processors (P) Ltd.
(11) M/s. Shiva Processors

(12) M/s. Apollo Processors
(13) M/s. J.P. Processors (P) Ltd. ... Respondents

Present for the Appellant : Shri M. Rastogi, DR
Present for the Respondent : None

Coram: Hon'ble Mr.Justice R.M.S. Khandeparkar, President
Hon'ble Mr. Rakesh Kumar, Member (Technical)

Date of Hearing/Decision:06.05.2010

FINAL **ORAL ORDER NO.** 359-371/10-58 **DATED:06.05.2010**

PER: JUSTICE R.M.S.KHANDEPARKAR

Heard ld. DR for the appellants. None appeared for the respondents. In all these matters undisputedly, the issue involved is that the respondents are engaged in the manufacture of processed man-made knitted fabrics attracting basic excise duty at the rate of 16% ad-valorem and additional excise duty at the rate of 8% Ad-valorem as tariff rate during the period from September 2002 to March, 2003. The respondents had cleared the said goods after paying duty at the rate of 12% ad-valorem, 8% being the basic excise duty and 4% being the additional excise duty, on the basis of Notification No.14/02-CE dated 1st March, 2002. In some of the cases, the processed fabrics manufactured were man-made woven fabrics classifiable under Chapter heading 54 or 55. In case of manmade fabrics clause 4 of the said Notification would apply, instead of clause No.16, which would apply to the knitted fabrics, however, the condition No.5 of the Notification stands applicable to both the sides. There is no dispute between the parties that issue involved in the matter was fully considered in the matter of Auro Textiles vs. Commissioner of

Central Excise, Chandigarh reported in 2010 (253) ELT 35 and consequently, the respondents cannot be held to be entitled for the benefit of Notification No.14/02 - CE dated 1st March, 2002. Indeed, the issue in this regard has been dealt with elaborately in the said decision and considering that the facts of the case in hand are similar to those of the Auro Textile, all these matters can be disposed of for the reasons stated in the said decision.

2. The ld. Advocate for the respondents however, has drawn our attention to para 21 of the order passed by the adjudicating authority while contending that the respondents would be entitled for deemed credit facility in terms of Notification No.6/02-CE (NT) dated 1st March, 2002 which right of the appellants should be considered while disposing the matter. As regards the main issue involved in the matter, as undisputedly the same is covered by the decision of Auro Textile, for the reasons stated in the said decision, the claim of the appellants for the benefit under the said Notification No.14/2002 cannot be granted and it is to be held that the respondents are not entitled for the benefit of the said Notification for the reasons stated in the said decision. As far as issue regarding the deemed credit under Notification No.6/2002 is concerned, needless to say that the authorities below have not adjudicated upon the said claim in the impugned order and nothing would prevent the respondent from pursues their claim in relation to the same in accordance with provisions of law. While safeguard the right of the appellant in relation to the deemed credit under the said

Notification, the appeals are disposed of in accordance with the law laid down by the Tribunal in Auro Textile case. All the appeals are accordingly disposed of in the above terms.

(JUSTICE R.M.S.KHANDEPARKAR)
PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

Anita