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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/161 - 162 / 2009 -SM[BR] Date 30/11/2010

Assistant Registrar
C.E.S.T.A.T, New Delhi
To :
1. M/S S.KUMARS NATIONWIDE LTD.
2. M/S S.KUMARS NATIONWIDE LTD.
A.B.ROAD, DEWAS (M.P.)

M/S S.KUMARS NATIONWIDE LTD. Appellant

Vs

C.C.E. INDORE Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1312 – 1313/2010-SM[BR] dated 11.11.2010 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
C.C.E. INDORE
MANIK BAGH PALACE, POST BOX NO. 10, INDORE 452001 (M.P.)
2. Adv. / Consult SHRI RAVI RAGHAVAN ADV.
M/S APPELLANT:--------------------

3 S.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 (Harvana)
13 TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, 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 Nos. 161 - 162 of 2009-SM (BR)

[Arising out of Order-in-Appeal No. IND-1/162/2008 dated 24.9.2008 passed by the Commissioner Central Excise (Appeals) Indore]

Date of Hearing/ Decision: 11.11.2010

For approval and signature:

Hon'ble Ms. Hon'ble Archana Wadhwa, 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.	No
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?	No
4	Whether Order is to be circulated to the Departmental authorities?	Yes

M/s S. Kumars Nationwide Ltd. ...Appellant

Vs.

CCE (Appeals), Indore ....Respondent

Appearance: Sh. Ravi Raghavan & Sh. Hemant Bajaj, Advocates appeared for the appellant.
Shri Anil Khanna, DR for the respondent.

CORAM: Hon'ble Archana Wadhwa, Member (Judicial)

Final Oral Order No.....1312 - 1313/2010 SM(BR)

Per Archana Wadhwa:

Since both the appeals arise from the same impugned order they are being disposed of by this common order as the issue involved is in identical nature.

2. As per facts on record, appellant is an independent process house engaged in the processing of fabrics. They availed cenvat credit of duty paid on man-made fabric purchased from M/s BTM Industries, Bhilwara. They took credit of duty paid on the said fabric and subsequently cleared the fabrics for export on payment of duty, by reversing the cenvat credit.

3. Revenue's objection is that manmade fabrics cannot be considered as input ~~fabrics~~ inasmuch as the same are final product of the appellant and as such no credit of duty is available to the appellant. Proceedings were initiated against them which culminated into impugned orders passed by the authorities below confirming the demands, by denying them the credit. Hence the present appeals.

4. After hearing both sides, I find that the issue is no more res-integra and stands settled by the decision of the Tribunal in the case of **CCE, Ahmedabad** vs. **Tapsheel Enterprises** reported in 2007 (216) ELT 284 (Tri. Ahmd.) laying down that the duty paid on finished goods is available as credit to an assessee, who subsequently exports the same on payment of duty, in terms of Rule 16. Learned Advocate also submits that another appeal of the same appellant, being Excise Appeal No. 846 of 2009, involving the same issue, stands decided by the Tribunal in their favour vide order dated 26.10.2010.

5. In view of the above, I set aside the impugned order and allow the appeals with consequently relief to the appellant.

(Archana Wadhwa)
Member (Judicial)

Pant