14

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# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

**PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066**

**CUSTOMS APPEAL BRANCH**

Appeal No. ST/1725-1727/2011 - CU[DB] Date **10/05/2012**
ST/S/3636-3638/11

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

To :
M/S SHREE SHYAM FILAMENTS,

(A DIVISION OF SHREE RAJASTHAN SYNTEX LTD.)
"SRSL HOUSE", PULLA BHUWANA ROAD, N.H.-8,
UDAIPUR (RAJ.)
313001

**M/S SHREE SHYAM FILAMENTS,** Appellant

Vs

**C.C.E. JAIPUR I** Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/A/371-373 2012 CU[DB]** dated 04.05.12 passed by the Tribunal under.**Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

**Alongwith Stay Order No ST/S/506-08/12**

Assistant Registrar
(Customs Appeal Branch)

**Copy to :**

1. Respondent
**C.C.E. JAIPUR I**
N.C.R.BUILDING, STATUE
CIRCLE, "C" SCHEME, JAIPUR
302005.

2. Adv. / Consult
**MR.V. LAXMIKUMARAN**
B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New Delhi
6. M/s Centax Publictions Pvt Ltd.,1512-B, Bhishm Pitamah marg,Opp. ICICI Bank of Defence Colony, New Delhi-3
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file

Assistant Registrar
(Customs Appeal Branch)

**CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL**
**PRINCIPAL BENCH, NEW DELHI**
**Court No.II**

**ST/Stay Nos.3636- 3638/2011**
**in /Appeal Nos.1725-1727/2011**

(Arising out of order in appeal No.365/376/371/DKV/ST /JPR 1/2011 dated 30.8.2011 passed by the Commissioner of Central Excise (Appeals), Jaipur)

Date of Hearing: 4.5.2012

For Approval and signature:

Hon'ble Mr. D.N. Panda, Member Judicial
Hon'ble Mr.Mathew John, Technical Member

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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 Department Authorities?

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M/s Shree Shyam Filaments — Appellants

Vs

CCE, Jaipur — Respondent

Appeared for the Appellant: Ms Kranti Somani, Advocate
Appeared for the Respondent: Shri Amresh Jain, DR

Coram: **Hon'ble Mr. D.N. Panda, Member (Judicial)**
**Hon'ble Mr. Mathew John, Member (Technical)**

Stay ORDER No. ST/S/506-508/12-Cus
Final order No. ST/A/371-373/12-Cus

Per D.N. Panda:

Learned Counsel submits that cenvat credit was permissible to be utilized for discharge of tax/duty liability during the impugned period. She relies on the decision of the Hon'ble Punjab & Haryana High Court in the case of CCE Vs Nahar Spinning Mills Ltd 2011-TIOL-413-HC-P&H-ST as well as CCE Ludhiana Vs M/s Dhillon Kool Drinks & Beverages Ltd STA No. 14 of 2011 dated 21.12.2011. According to her, the view of Hon'ble Punjab & Haryana High Court is also the view of Hon'ble High Court of Himachal Pradesh for which she prays that all the three stay applications and appeals may be disposed of in view of settled principle and Tribunal having followed such principle laid down in above judgments consistently in the recent past.

2. Learned DR for Revenue does not agree with the proposition of the appellant on the ground that the controversy needs reconsideration and re-look.

3. Heard both sides and perused the record.

4. We do not find any reason for relook ~~at~~ of the matter as suggested by Revenue when Revenue's contention is not supported by law. So also many orders have been passed following the aforesaid judgments of the Hon'ble High Court and nothing has been shown to us whether aforesaid judgments are reversed or stayed by higher court. Therefore, following the rule of consistency, all the three stay petitions and appeals are allowed.

(Order dictated and pronounced in the open Court.)

(MATHEW JOHN)
Technical Member

(D.N. PANDA)
Judicial Member.

MPS*