CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH, COURT NO. III

EXCISE APPEAL NO. 51208 OF 2020

[Arising out of Order-in-Appeal No. DDN/EXCUS/000/APPL/93/2020-21 dated 26.08.2020 passed by the Commissioner, CGST (Appeals), Dehradun]

M/s. Naini Papers Ltd. **.....Appellant**
7th KM, Moradabad Road, Kashipur
Udham Singh Nagar
Uttrakhand

Vs.

Commissioner of Central Excise & CGST **.....Respondent**
Dehradun

WITH

EXCISE APPEAL NO. 50320 OF 2021

[Arising out of Order-in-Original No. 31/COMMR/DDN/2020 dated 23.11.2020 passed by the Commissioner, CGST, Dehradun]

M/s. Naini Tissues Ltd. **.....Appellant**
7th KM, Moradabad Road, Kashipur
Udham Singh Nagar
Uttrakhand – 244713

Vs.

Commissioner **.....Respondent**
Central Goods & Service Tax
E-Block, Nehru Colony, Haridwar Road
Dehradun

WITH

EXCISE APPEAL NO. 51710 OF 2022

[Arising out of Order-in-Appeal No. DDN/EXCUS/000/APPL/58/21-22 dated 30.03.2022 passed by the Commissioner (Appeals), CGST, Dehradun]

M/s. Naini Tissues Ltd. **.....Appellant**
7th KM, Moradabad Road, Kashipur
Udham Singh Nagar
Uttrakhand – 244713

Vs.

Commissioner **.....Respondent**
Central Goods & Service Tax
E-Block, Nehru Colony, Haridwar Road
Dehradun

AND

SERVICE TAX APPEAL NO. 51742 OF 2022

[Arising out of Order-in-Appeal No. DDN/EXCUS/000/APPL/58/21-22 dated 30.03.2022 passed by the Commissioner (Appeals), CGST, Dehradun]

M/s. Naini Papers Ltd. **.....Appellant**
7th KM, Moradabad Road, Kashipur
Udham Singh Nagar
Uttrakhand – 244713

Vs.

Commissioner **.....Respondent**
Central Goods & Service Tax
Dehradun

Appearance:

Present for the Appellant : Ms. Sukriti Das, Mr. Shivam Bansal, Advocate
Present for the Respondent: Mr. D. D. Mangal, Authorised Representative

CORAM:

HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)
HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

Date of Hearing/Decision : **15.09.2026**

FINAL ORDER NO. 51470–51473/2026

PER: SOMESH ARORA

In this matter in the first round of litigation this Tribunal vide Final Order No. 51752/2017 dated 16.10.2017 directed the remand while giving the directions as follows:

> "5. The appellants contended that they have no control on the end use of the goods cleared by them. Such argument will have limited merit only. While they are claiming the exemption for the excisable goods with certain conditions of usage, it is imperative that such conditions are fulfilled. Here it is relevant to note that the lower authority excluded sale of papers to the dealers apparently on the reasons that the further disposal of such papers by the dealers is not in the control of the appellants. However, when the appellant had received purchase orders and sold the paper directly to the publishers of education textbook, it is clear that they are running the risk of losing the exemption under Notification No.49/2003. There can be no contest on the grounds that the end use is not in their control. When they sold the paper to a known publisher of educational textbook, it is apparent that they are aware of the usage of paper. They cannot take a plea that they have no control on them when end use is recognizable.
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> 6. However, regarding the quantification of their duty liability, we find some merit in the plea of the appellants that not all papers cleared by them to the 11 publishers can be considered as used for printing educational textbooks. Even though, the original authority has recorded that the enquiry revealed that almost all of them are publishers of educational textbooks, we note that such general observations made will not be sufficient to quantify the duty liability. The negative entry in the notification is specifically with reference to writing or printing paper for printing of educational textbooks. When the Revenue proceeded to demand duty on this ground, it is necessary to categorically establish and calculate the duty liability only with reference to paper for printing educational textbooks. This aspect requires re-look by the original authority. Re-quantification of duty liability has to be done based on the documents and verification regarding the paper cleared by the appellant for printing of educational textbooks. The appellants shall be provided adequate opportunity to submit the records and additional details, if any, required can be verified with the buyers."

2. In relation to the controversy whether the papers supplied by the appellants was used for textbook or other than textbooks which was the core

of the controversy. Appellant submitted a list of suppliers to whom they supplied the paper with submission that a number of them were not into the manufacture of textbook. However, despite the direction to the party to indicate as to what was used and what was not used for textbooks, we find that general details were provided as to the publisher of the textbook. The definition of textbook has been spelt out by this bench only in the last round of litigation. However, while looking into the matter the department is of the view that the details as were required as per direction of the order of the Tribunal were not followed by the party in so far as they did not provide figures of materials which were supplied for textbooks and which were supplied for other than textbook and therefore the onus which was placed upon them by the order was not discharged by them.

3. The party on the other side is aggrieved as the department conducted scanty investigation in respect of some publishers from their website which cannot be considered as conclusive and in case of others, did not conduct detailed investigation as to how much quantity was used for textbook and how much was used for other than textbook. We find that both sides could have done their part better, in the light of the decision of the Tribunal which is before us. However, the party from his publishers did not provide details as to how much was used for textbook and how much for other than textbook. Further, we find that both the sides are in disagreement as to the scope of textbook. As is understood in the common parlance textbook would mean something which is used for education purposes by the educators. Within this scope the appellants are directed to supply figures as per their claim with evidentiary basis as to how much was used for textbook in respect of each of the publishers and how much was used for the non textbook, as claimed by them. Once the claim is made with the department it should apply the criteria of textbook which is commonly understood and then verify the same instead

of doing piecemeal work in respect of some publishers only and not in respect of others and also to avoid placing exclusive reliance on materials on the website. We make it clear to both sides that there cannot be repeated remand and that in the interest of justice that we are most reluctantly remanding this matter back, as a last chance. Similar treatment shall be given to any of the appelalnts who may have more than 11 publishers but are otherwise similarly situated. It is being made clear that for reference we have used appeal number 50320/2021 and for the observations contained in this order. Appeals allowed by way of remand.

[Order dictated in the open court]

**(SOMESH ARORA)
MEMBER (JUDICIAL)**

**(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)**

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