

**CUSTOMS EXCISE & SERVICE TAX
APPELLATE TRIBUNAL,**

West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing: 19.07.2017

Appeal No. E/3372,3373/2010-EX[DB]

[Arising out of the Order-in-Appeal No. 376-377/CE/Apl/D-II/2010 dated 02.08.2010, passed by the Commissioner of Central Excise, New Delhi]

M/s. Tahiliani Designs Pvt. Ltd.

Mr. Tarun Tahiliani

...

Appellant

Vs.

C.C.E. Delhi-III

...

Respondent

Appearance:

Present Shri Naveen Mullick, Advocate for the appellant

Present Shri H.C. Saini, DR for the respondent

**Coram: Hon'ble Mr. Justice (Dr.) Satish Chandra, President
 Hon'ble Mr. V. Padmanabhan, Technical Member**

FINAL ORDER No.55489-55490/2017

Per Justice (Dr.) Satish Chandra:

The present appeal is filed against the order in appeal no. 376-377/2010 dated 02.08.2010. The issue involved in both the appeals is the scope of notification no. 7/2003 dated 01.03.2003 particularly in relation to Sl. No. 43 which relates to stitching of garments for personal use of the customers.

2. After hearing both the parties, it appears that the identical issue had already come up in the appellant's own case before the Tribunal for the earlier period (vide final order no. 51802/2016 dated 09.05.2016) wherein it was observed that:

"After having gone through the impugned order of the Commissioner (Appeals), we find that the matter stand

remanded by him for examining and verifying the factual position which in our view is necessary to extend the benefit of notification. It is only in particular circumstances, the exemption is available to the assessee and fact that wherever they have claimed the exemption for manufactured garments which are meant for individual use or not are essential for extending benefit of such notification. As such, we do not find any infirmity in the views of appellate authority and accordingly, direct the adjudicating authority to do the verification in terms of the directions as contained in the order of Commissioner (Appeals). In the foregoing discussion, the appeal is rejected."

3. During the course of arguments, the Ld. Counsel Shri Naveen Mullick submits that as per the direction of the Hon'ble Tribunal, the matter is still pending before the adjudicating authority.

4. When it is so, then, we set aside the impugned order and remand the matter back to the adjudicating authority with similar directions as mentioned above. The adjudicating authority will provide an opportunity to the appellant of being heard. Fresh evidence, if any, may be admitted. Appeal is allowed by way of remand.

[Dictated and Pronounced in the open court]

(V. Padmanabhan)
Technical Member

(Justice Dr. Satish Chandra)
President

Bhanu