IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-DB

COURT –IV

Customs Appeal No.C/51730/2016-CU [DB]

[Arising out of Order-in-Appeal No.CC(A) CUS/D-II/IMPORT/216 TO 217/2016 passed by the Commissioner (Appeals), Customs, New Delhi]

M/s. Artex Textile Pvt. Ltd. …Appellant

Vs.

C.C.E. & C., Faridabad … Respondent

Present for the Appellant : None
Present for the Respondent: Mr. A.K. Singh, D.R.

Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. B.RAVICHANDRAN, MEMBER (TECHNICAL)

Date of Hearing / Decision : 01/11/2017

FINAL ORDER NO. 57663/2017

PER: B.RAVICHANDRAN

The appeal is against order dated 02.03.2016 of Commissioner (Appeals), Customs, New Delhi.

2. The appellants imported non-textured Polyester Lining Cloth and filed Bill of Entry claiming the exemption under Notification No. 30/2004- CE dated 09.04.2004. The lower authorities denied the exemption on the ground that one of the conditions mentioned therein was not fulfilled by the appellant. The condition is with reference to non-availment of credit of

duty on the inputs or capital goods under the provisions of Cenvat Credits Rules, 2002. The impugned order recorded that the decision of Hon'ble Supreme Court in the case of SRF Ltd. – 2015 (318) E.L.T. 607 (SC), is being taken up for review by the Revenue in the Apex Court. It is further recorded that as per the amendment carried out in Notification No. 34/2005-CE dated 17.07.2015, the position is clear to the effect that the appellants are not eligible for the said exemption.

3. None appeared on behalf of the appellant. The ld. AR reiterated the findings of the lower authority.

4. We have heard the ld. AR and perused the appeal records. We note that in appellants own case, this Tribunal allowed the exemption vide Final Order No.55993-56023 of 2016 dated 17.11.2016. We also note that the Apex Court affirmed their decision in SRF Ltd. (supra) by dismissing the review petition of Revenue – 2016 (340) ELT A 202 (SC).

5. In view of the above settled legal position on following the decision of the Tribunal in appellants own case, we set aside the impugned order and allow the appeal.

[Dictated and pronounced in the open Court]

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita