IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA

REGIONAL BENCH - COURT NO.2

Excise Appeal No.75423 of 2017

(Arising out of Order-in-Appeal No.62-63/KOL-II/2016 dated 13.12.2016 passed by Commissioner of Central Excise (Appeal-I), Kolkata.)

M/s. Mohan Jute Ltd.
(13 & 14, Andul Road, Howrah-711109.)

...Appellant

VERSUS

Commissioner of Central Excise, Kolkata-II
.....Respondent
(GST Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata-700107.)

WITH

Excise Appeal No.75424 of 2017

(Arising out of Order-in-Appeal No.62-63/KOL-II/2016 dated 13.12.2016 passed by Commissioner of Central Excise (Appeal-I), Kolkata.)

Shri Pawan Kumar Agarwal, Director
M/s. Mohan Jute Ltd.
(13 & 14, Andul Road, Howrah-711109.)

...Appellant

VERSUS

Commissioner of Central Excise, Kolkata-II
.....Respondent
(GST Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata-700107.)

APPEARANCE

Shri N.K.Chowdhury, Advocate for the Appellant (s)
Shri D.Sue, Authorized Representative for the Revenue

CORAM: HON'BLE SHRI R. MURALIDHAR, MEMBER(JUDICIAL)
HON'BLE SHRI RAJEEV TANDON, MEMBER(TECHNICAL)

FINAL ORDER NO. 76926-76927/2025

DATE OF HEARING : 14.07.2025
DATE OF DECISION : 14.07.2025

Per : R. MURALIDHAR :

The Appellant is manufacturer of hessian/jute bags. On the ground that the Appellant has not paid Cess on the jute bags a Show Cause Notice was issued for the period 2005-06 to 2007-08. After due process, the Adjudicating authority has confirmed the order holding that no Cess has been paid at the fabric/hessian cloth stage. Being aggrieved, the Appellant is before the Tribunal.

2. The Ld.Advocate appearing on behalf of the Appellant submits that the issue is no more *res integra*. This Bench in the case of **Royal Touch Fablon v. CCE, Kolkata-IV [Final Order No.A/222/KOL/09 dated 17.07.2009]** has held that when Cess is paid on the fabric stage, there is need to pay the Cess once again. This decision was followed by the same Bench in another case vide Final Order No. A/267 dated 19.05.2009. Being aggrieved by the Final Order No.A/222/KOL/2009 dated 17.04.2009, the Revenue filed their Appeal before Hon'ble Calcutta High Court. Vide Order dated 03.03.2010, the Appeal filed by the Revenue was dismissed at the admission stage itself. In view of these case laws, the Ld.Counsel submits that the present appeal may be allowed.

3. The Ld.AR reiterates the findings of the lower authority and submits that the Appellant has not provided any proof towards payment of Cess during the earlier stages.

4. On going through the appeal papers, we find that the Appellant has enclosed all the invoices from various vendors showing the details of Cess @ 1% *ad valorem* paid along with Education Cess of 2% of Cess duty. Two such samples are extracted below:

(6)

Tax Invoice

196 – Date 03.08.2006

To PREMIUM AGRO EXPORTS LTD.
UNIT :The Eastern Mfg. Co. Ltd.
Ali Hyder Road, Titagarh 24 Pgs(N), W.B.
Administrative Office-210, Shakespeare Sarani,Kolkata-17

Dr

[illegible] LIMITED
[illegible]
CALCUTTA- [illegible]

[illegible] NO. : 19480403010
[illegible] S.T. NO 19480403107

W.B.S.T. No.: 19663017150
C.S.T No.: 19663017247
VAT. NO. : 19663017053

PARTICULARS READY	Rate	Amount
[illegible] the value of:- 27 B/s. or 54000.00 Yds [illegible]IAN CLOTH 39-6 OZ/40 8X7 PLAIN I/B [illegible] YDS.	34539.00 Tonne	309331.00
[illegible] Tonne 8.956		
[illegible] Duty @ 1% Advelorem		3093.00
[illegible]tional Cess 2% On Cess Duty		62.00
Sub Total:-		312486.00
[illegible] Rate @ 4.00%		12499.44
		324985.44
[illegible] Round Off		-0.44
	Total Rs	324985.00

Paid by ch. No. 196722 on KBL dt 04/08/06

Rupees: THREE LAKHS TWENTY FOUR THOUSAND NINE HUNDRED EIGHTY FIVE ONLY.

E.& O.E.

[illegible] M/S KO

[illegible] No ____ Date ____

[illegible] R.No/R/R No ____ Date ____

[illegible] No ____ Date ____

[illegible] No ____ Date ____

[illegible] Certificate No ____ Date ____

For Premium Agro Exports Lt
Unit : The Eastern Mfg. Co.

[illegible] The Collecting Sircar has instructions not to part with Mate's Receipts/R.R or Delivery Order until payment has not been [illegible] in full

(14)

PLEASE PAY BY A/C PAYEE CROSSED CHEQUE

Phone : 2283-5382/5394

Tax Invoice

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Date 12.07.2006

To THE EMPIRE JUTE CO. LIMITED.

21A, SHAKESPEARE SARANI, KOLKATA - 700 017

Dr

[illegible]MOHAN JUTE LIMITED.

[illegible], CLIVE ROW

CALCUTTA - 1.

VAT/TIN NO. : 19480403010

W.B.S.T. NO. : 19480403107

W.B.S.T. No.: 19200250132

C.S.T No.: 19200250229

VAT. NO. : 19200250035

PARTICULARS READY	Rate	Amount
[illegible] the Value of:- 27 B/s. or 54000.00 Yds [illegible]SSIAN CLOTH 39-6 OZ/40 8X7 PLAIN I/B [illegible] YDS.	34638.00 Tonne	310218.00
M/Tonne 8.956		
Cess Duty @ 1% Advelorem		3102.00
Educational Cess 2% On Cess Duty		62.00
Sub Total:-		313382.00
VAT/CST. Rate @ 4.00%		12535.28
		325917.28
[illegible] : Round Off		-0.28
	Total Rs	325917.00

E.& O.E.

RUPEES THREE LAKHS TWENTY FIVE THOUSAND NINE HUNDRED SEVENTEEN ONLY.

Under M/s KO/

Contract No ______ Date ______

M.R./C.N.No/R/R No ______ Date ______

[illegible] No ______ Date ______

[illegible] Ch.No ______ Date ______

Inspection Certificate No ______ Date ______

204037

KRWD

13.7.06

Rs 325917/-

For The Empire Jute Co. Lt

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N.B. -- The Collecting Sircar has instructions not to part with Mate's Receipts/R.R or Delivery Order until payment has not been received in full.

5. After going through the factual details, we find that the Cess has been paid at the first stage while purchasing the hessian bags by the Appellant.

6. We also find that the issue is squarely covered by the decision of this Tribunal upheld by the Hon'ble Calcutta High Court. Therefore, by respectfully following the decision of the Hon'ble High Court, we set aside the impugned order and allow the Appeals.

(Dictated and pronounced in the open Court.)

Sd/	Sd/
(RAJEEV TANDON)	**(R. MURALIDHAR)**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

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