

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT No. I**

APPEAL No. C/207/2012

(Arising out of Order-in-Appeal No. 633(GR.III)/2011 (JNCH)/IMP-550 dated 29.11.2011 passed by Commissioner of Customs (Appeals), Mumbai-II, Nhava Sheva)

Damodar Yarn Mfg. Pvt. Ltd.

Appellant

Vs.

Commissioner of Customs (Import), Nhava Sheva **Respondent**

Appearance:

Shri Prashant Patankar, Consultant, for appellant

Shri Manoj Kumar, Assistant Commissioner (AR), for respondent

CORAM:

Hon'ble Mr. S.K. Mohanty, Member (Judicial)

Hon'ble Mr. Sanjiv Srivastava, Member (Technical)

Date of Hearing: 6.12.2018

Date of Decision: 6.12.2018

ORDER No. **A/88069/2018**

Per: S.K. Mohanty

This appeal is directed against the impugned order dated 29.11.2011 passed by the Commissioner of Customs (Appeals), Mumbai-II.

2. Brief facts of the case are that the appellant had imported a consignment of 100% polyester filament yarn, supplied by M/s. Woongjin Chemicals Co. Ltd., Korea and sought assessment vide Bill of Entry

No.95416 dated 15.11.2010. At the time of examination, the goods were found in the name of M/s. Saehan Industries Inc. on the cartons. Hence, the department denied the benefit of exemption from payment of anti-dumping duty in terms of Notification No.15/2007-Cus., dated 20.2.2007.

3. The appellant contended that the notification dated 20.2.2007 squarely applies to the case of the appellant for grant of exemption from payment of anti-dumping duty inasmuch as the exporter and the manufacturer of the said goods, i.e. polyester filament yarn, is M/s. Woongjin Chemicals Co. Ltd. It has further been contended that the name of M/s. Saehan Industries Inc. was changed to M/s. Woongjin Chemicals Co. Ltd. and in support of such contention, the appellant has placed on record the Final Findings dated 20.8.2010 by the Directorate General of Anti Dumping & Allied Duties. Since such final finding order was not placed before the original authority, the appeal of the appellant was dismissed by the learned Commissioner (Appeals).

4. Heard both sides and perused the records.

5. We find that in the Final Findings dated 20.8.2011, at paragraph 8, it has been specifically

stated that M/s. Saehan Industries Inc. was merged with M/s. Woongjin Chemicals Co. Ltd. Thus, it is evident that the exporter and the manufacturer of the subject goods was M/s. Woongjin Chemicals Co. Ltd., Korea. Thus, the requirements of the notification dated 20.2.2007 have been duly complied with by the appellant for grant of exemption from payment of anti-dumping duty on polyester filament yarn.

6. Therefore, we do not find any merits in the impugned order in denying the benefit of notification dated 20.02.2007 to the appellant. Accordingly, the same is set aside and the appeal is allowed in favour of the appellant.

(Pronounced in court)

(Sanjiv Srivastava)
Member (Technical)

(S.K. Mohanty)
Member (Judicial)