CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI
REGIONAL BENCH

Excise Appeal No. 1725 of 2010

(Arising out of Order-in-Appeal No. SB(65)65/MV/2010 dated 14.07.2010 passed by Commissioner of Central Excise (Appeals), Mumbai)

M/s. Paramount Fabrics Ltd. **Appellant**
2, Walbhat Madhavji Road,
Goregaon (W),
Mumbai 400 063.

Vs.

Commissioner of Cen. Ex., Mumbai-V **Respondent**
5th floor, Utpad Shulk Bhavan,
Plot No. C-24, Block 'E',
Bandra-Kurla Complex,
Bandra (E), Mumbai 400 051.

Appearance:

Shri C.S. Biradar, Advocate, for the Appellant
Shri A.B. Kulgod, Authorised Representative for the Respondent

CORAM:

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

FINAL ORDER NO. A/**87094/2019**

Date of Hearing: 11.12.2018
Date of Decision: 11.12.2018

PER: S.K. MOHANTY

Briefly stated, the facts of the case are that the appellant herein is engaged in the processing of fabrics and embroidery on the fabrics as per the requirements of the customers. Processing of textile fabrics is considered as a manufacturing activity and is classified under Heading No. 5804 of the Schedule to the Central Excise Tariff Act, 1985. During the disputed period, the appellant had claimed the benefit of exemption provided under Notification No.106/95-

C.E. dated 11.08.1995. However, such benefit was denied by the department on the ground that in terms of Chapter Note 8 to Chapter 58 of the CETA, 1985, on processed embroidery, duty is required to be paid and the benefit of such notification is available only to embroidery and not to processed embroidery. The show cause notice issued by the department was adjudicated vide order dated 26.07.2007, wherein proposed central excise duty demand along with interest was confirmed on the appellant. On appeal, the learned Commissioner of Central Excise (Appeals), Zone-I, Mumbai, vide the impugned order dated 14.07.2010, has upheld the adjudged demand confirmed on the appellant on the ground that processing of embroided fabrics would not be considered for exemption provided under the Notification dated 11.08.1995. Feeling aggrieved with the impugned order, the appellant has preferred this appeal before the Tribunal.

2. Heard both sides and perused the records.

3. The issue arising out of the present dispute is no more *res integra* in view of order No. M/443/WZB/2005-C-II dated 31.01.2005 passed by the Larger Bench of this Tribunal in the case of Haren Textiles Ltd. While answering to the disputed question, as to whether, Chapter Note 8 to Chapter 58 of the Central Excise Tariff Act, 1985 would apply to value additions due to processing etc. to embroided fabrics, as held in *Parekh Prints [2003 (59) RLT 328 (CESTAT-Mumbai)]* and that Chapter Note 8 does not apply to processing done of embroidery on grey fabrics as held in M/s. Dora Processors (CB/426 to

428/03-WZB dated 12.03.2003), the Larger Bench of the Tribunal has held that Note 8 to Chapter 58 of the CETA, 1985 does not apply to processing of embroidery on grey fabrics. In the present case, since the department has confirmed central excise duty demand on the ground that processing of embroided fabrics would amount to manufacture under Note 8 of Chapter 58, and the benefit of Notification No.106/95-C.E. dated 11.08.1995 would not be available, we do not find any substance in such observations as per the order dated 31.01.2005 (supra) passed by the Larger Bench.

4. Therefore, the impugned order passed by the learned Commissioner (Appeals) is set aside and the appeal is allowed in favour of the appellant.

(Pronounced in the open court)

(S.K. Mohanty)
Member (Judicial)

(Sanjiv Srivastava)
Member (Technical)

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