# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

**Customs Appeal No. 88014 of 2013**

(Arising out of Order-in-Appeal No. 414-417/NCH/AC/ICD(M)(1)/2012 dated 12.07.2012 passed by the Commissioner of Customs (Appeals), Mumbai)

**M/s Sunlord Apparels Mfg Co. Ltd.** **.... Appellant**
Plot No. 3, Toy City Udyog Kendra, Gr. Noida

Versus

**Commissioner of Customs-Mumbai-Export** **.... Respondent**
New Customs House, Ballard Estate, Mumbai-400001.

Appearance:

Shri Akhilesh Kangsia a/w Ms. Apoorva Parihar, Advocate for the Appellant

Shri S.K. Hatangadi, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)**

**FINAL ORDER NO. A/85655/2023**

Date of Hearing: 12.04.2023
Date of Decision: 12.04.2023

***Per: Anil G. Shakkarwar***

The appellant was involved in doing job work on the imported goods which were exported after completion of the job work. The appellant filed Bill of Entry No. 938461 dated 09.03.2010 for clearance of 6135 Mtrs of woven fabrics having width of 59" and colour - denim blue. The goods were allowed to be cleared without payment of duty by extending the benefit of Notification No. 32/97 dated 01.04.1997 against a Bond for an amount of around Rs. 8 lakhs with bank guarantee of around Rs. 5 lakhs. The condition of notification was that the imported goods should be exported within six months from the date of import.

Therefore, initially the goods were allowed for clearance without payment of duty. The above stated Bill of Entry was initially assessed provisionally and for the purpose of finalization of assessment of the goods imported through above said Bill of Entry, the appellant were issued with a show cause notice dated 23.11.2010 through which the appellant was required to show cause as to why the bank guarantee should not be invoked and duty amounting to Rs.5,67,437/- should not be demanded and accordingly, the assessment should not be finalized. The appellant submitted reply to show cause notice through their letter dated 06.12.2010 enclosing copies of four shipping bills dated 11.05.2010, 14.05.2010, 19.05.2010 and 22.05.2010 along with copies of invoice and other documents containing the details of the export of the dress made out of woven fabric imported. The learned original authority passed Order-in-Original dated 16.05.2011, wherein the learned original authority has held that the condition (v) of Notification No. 36/96 dated 23.07.1996 required registration with jurisdictional Central Excise authorities and following the procedure stated out to said Notification No. 36/96 was one of the conditions of Notifications No. 32/97 and held that the appellants had not registered with the jurisdictional Central Excise Authority and therefore, he has ordered recovery of customs duty of Rs. 3,68,100/- along with interest and ordered for enforcing Bank Guarantee of Rs.5,05,000 executed by the importer. The appellant preferred appeal before the learned Commissioner (Appeals), who has declined to interfere with the original order, through the impugned order dated 12.07.2012. Aggrieved by the said order, the appellant is before this Tribunal.

2. Heard the learned Counsel for the appellant. The learned Counsel for the appellant has submitted that the show cause notice was issued demanding the proof that the goods were exported within six months. He has submitted that the goods were imported in March 2010 and after job work of the goods imported in March 2010, all the goods were exported in the month of May 2010 i.e. before stipulated date as mentioned in the Notification No. 32/97. He has further submitted that show cause notice did not make any mention regarding condition (v) of Notification No. 36/96 and without putting the appellant on notice for the same, the original authority has held that the said condition was not satisfied by the appellant. He has explained that under Notification No. 32/97-Cus, there is proviso under condition (v) that if the job work is being done through cottage industry then registration with jurisdiction of Central Excise was not required and bond is required to be executed with the Assistant Commissioner of Customs. He has submitted that they had executed such bond and the said show cause notice proposed to enforce the bank guarantee associated with the same bond and therefore, it is not that the original authority was not aware of the bond so executed also that on second page of the said bond at e) it is stated that the job work shall be done through cottage industry and that registration with Central Excise Authority was not required. He has in a nutshell submitted that the goods were exported within six months and registration with jurisdictional Central Excise Authority was not required. He has requested to set aside the impugned order.

3. Heard the learned AR. Learned AR has pointed out that the said Notification No. 32/97 requires that the goods after job work are to be exported to the supplier of the goods and submitted that

the goods were imported from Taivan and were exported to UK and therefore, the demand of Custom duty is justified.

4. Subsequent to that the learned Counsel for the appellant has pointed out that the purchase order issued by the party to whom goods were supplied after job work is bearing No. 4386 and the same has been reflected in the Bill of Entry. Bill of Entry also indicate the number of the bond. He has submitted that all the documents which have submitted to customs clearly indicate that they were instructed by the Taivan Party to supply goods as jobwork to UK Party and that the Taivan party supplied goods free of cost to the appellant and therefore, the contention raised by the AR dose not established that the appellant were required to pay customs duty.

5. I have carefully gone through the records of the case and submissions made. I have verified all the documents place in the appeal file and the submissions made by the learned Counsel for the appellant. Every submission made by the learned Counsel for the appellant as recorded above has been verified through the concerned invoice, Bill of Entry, shipping bill, notification, bond etc. is found to be correct. Therefore, I accept all the contentions raised by the learned Counsel for the appellant as recorded above and on the same basis hold that the impugned order dose not sustain in law. I, therefore, set aside the impugned order and allow the appeal.

(Order dictated and pronounced in open court)

**(Anil G. Shakkarwar)**
**Member (Technical)**

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