CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 89083 of 2013

(Arising out of Order-in-Appeal No. NGP/EXCUS/000/APPL/662/13-14 dated 22.07.2013 passed by the Commissioner (Appeals), Customs & Central Excise, Nagpur)

Indoworth India Ltd. **.... Appellant**
B-130, MIDC Industrial Area,
Butibori, Nagpur- 441 122.

Versus

Commissioner of Central Excise, Nagpur **.... Respondent**
Telangkhedi Road, Civil Lines,
Post Box No.81, Nagpur- 440 001.

Appearance:

None for the Appellant

Shri P.K. Acharya, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/87444/2024

Date of Hearing: 09.12.2024

Date of Decision: 09.12.2024

Per: S.K. MOHANTY

This appeal came up for hearing on several occasions, notably on 12.07.2023, 04.10.2023, 15.12.2023, 15.04.2024, 05.07.2024 and 01.10.2024. While adjourning the matter on 01.10.2024, the Bench has specifically made the remark in the order sheet that this is the last time and the notice should be served on the appellants through the Departmental Representative. When the matter was called for hearing today, none appeared for the appellants. The learned Authorized Representative appearing for the Revenue has submitted the letter dated 18.11.2024 addressed by the Jurisdictional Range Superintendent, Division Hingna, Nagpur-I

Commissionerate, mentioning that the notice of hearing has already been served on the appellants. From the available records, more particularly, the order sheets available in the case file, we find that the appellants are not interested in pursuing their right of appeal. Therefore, on the basis of available records and with the assistance of Ld. AR for the Revenue, we are taking up the appeal for hearing and disposal today.

2. Briefly stated, the facts of the case are that the appellants herein, are engaged in the manufacture of Wool Yarn of different varieties, falling under Chapter 51 & 55 of the First Schedule to the Central Excise Tariff Act, 1985. During the period July 2010 to October 2010, the appellants had cleared the said finished goods outside their factory at concessional rate of duty in terms of the Notification No. 23/2003-C.E. dated 31.03.2003. Clearance of the goods at concessional rate of duty was objected to by the department on the ground that the appellants were not eligible for the concessional rate of duty inasmuch as they did not fulfill the condition of the said notification, as they had used the imported raw material in the manufacture of the final products cleared in the DTA. On the basis of such understanding, the department had initiated show cause proceedings against the appellants, which were culminated into the adjudication order dated 02.01.2013, wherein the original authority had confirmed Central Excise duty demand along with interest and also imposed penalty on the appellants. On appeal against the said adjudication order dated 02.01.2013, the learned Commissioner (Appeals) vide the impugned order dated 22.07.2013 has upheld confirmation of the adjudged demands and rejected the appeal filed by the appellants. Feeling aggrieved with the impugned order dated 22.07.2013, the appellants have preferred this appeal before the Tribunal.

3. We find that the concessional rate of duty claimed by the appellants in terms of Notification No. 23/2003-C.E. dated 31.03.2003 was denied by the department on the ground that the inputs used for manufacture of the final products were ‘consumables’ and not ‘raw materials’ and that the said consumables were also not procured from the domestic sources and the same were procured through the imported sources. Since, the Condition No.3 appended to

the notification dated 31.03.2003 (supra) has not been complied with by the appellants, we are of the view that denial of the benefit of the said notification by the department is in conformity with the statutory provisions.

4. Therefore, we do not find any infirmity in the impugned order passed by the learned Commissioner (Appeals). Accordingly, appeal filed by the appellant is dismissed.

(Dictated and pronounced in open court)

(S.K. Mohanty)
Member (Judicial)

(M.M. Parthiban)
Member (Technical)

SM