BipIn Textile and Processing Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT

Decided On : Aug-07-1998

Reported in : (1999)(80)LC225Tri(Bang.)alore

Judge : S Peeran, A T V.K.

Appellant : BipIn Textile and Processing

Respondent : Cce

Advocate for Pet/Ap. : Shri. G. Sampath

Judgement :

1. All these appeals arise out of the order in original dated 27.7.1990 by which the Collector of Central Excise has confirmed the duty demand of Rs. 3,39,239.59 on the fabrics both cotton and man-made processed and cleared as detailed in Annexures D. 1 to D. 6 and D. 8 to the show cause notice issued under the provisions of Section 11A of the CEA, 1944. Further an amount of Rs. 24,724.07 has also been confirmed by way of duty on fabrics both of cotton as well as man-made processed by M/s.

Bipin Textile & Processing Industries (P) Ltd. (M/s. BPT for short) and cleared clandestinely in the name of M/s. Padma Arts and Prints (M/s.

PAP for short) Bangalore as detailed in Annexure D-7 to the show cause notice. Penalty of Rs. 1 lac has been imposed on the Co. besides penalties of various amounts on the Managing Director, Director, and separate penalty on Anand

Kumar of M/s. Gokuldas Images, and on M/s.

Padmashree Arts and Prints, Bangalore.

2. The allegations, against the appellants M/s. BTP are that they have cleared certain fabrics without payment of duty. They are undertaking processes like dyeing, bleaching, damping, scouring, calendering, starching, stanting and curing, though they are not eligible to the exemption for the same. The appellants had also cleared certain items of man-made fabrics and those cotton fabrics without payment of duty or paying lesser amount of duty. M/s. BPT was also carrying out certain processes on job work basis. They started functioning from May 1987 and they were undertaking several processes on the grey fabrics received by them such as dyeing, bleaching, damping, scouring, calendering, starching, stanting and curing. These processes were done on their own fabrics as well as on the fabrics received by them for processing on job work basis. They purchased cotton fabrics only and processed the same. In respect of fabrics of customers, they process cotton fabrics, rayon, nylon, Boski etc. They had machinery such as jiggers, Dyeing, Padding finishing, mini-felt calendering, plain stenter, bale processing and boiler of one tonne capacity. They had also a sister concern, viz. M/s. Padmashree Arts and Prints which was housed in the adjacent building. Fabrics received by them were taken into account in the form IV register and then taken for processing to the respective departments such as dyeing and bleaching etc. and the respective department has registers for entering the quantity processed on a given date. The clothes so processed were delivered under delivery challans and gate passes. Invoices were raised on parties for the whole value or only for processing charges depending on the cloth being own or cloth received for processing on job work basis. It was noticed that many of the private documents as well as statutory documents were manipulated to evade payment of duty. M/s. BTP were clearing certain quantities of the fabric processed by them after subjecting them to process like calendering, curing, scouring etc. and claimed exemption under Notification 253/82 dated 8.11.1982. However, it was noticed that they were not eligible for the exemption in view of the fact that as per the provisions of the Notification, the exemption contained in the same is not applicable if process other than the processes listed out in the Notification are also carried out in the factory. It was

also noticed that they had also simultaneously carried out dutiable processes like bleaching, dyeing etc. in the same factory in addition to the processes like calendering, scouring etc. and they had carried out the processes like calendering, curing etc. on man-made fabrics like rayon, nylon, boski, also in the same factory. Therefore, the department alleged that they are not eligible for the exemption in terms of Notification 297/97 dated 24.11.1979 during the period 10.2.1988 to 12.8.1989. Hence they are liable to pay duty at the appropriate rate on the fabrics processed by them. It was also alleged that they have misdeclared the processes carried out on the fabrics and cleared the same under nil rate of duty while the processes actually carried out are liable for payment of duty. It is also alleged that M/s. BTP were receiving fabrics from customers such as M/s. Gokuldas Images, Bangalore, M/s. Balaji Creations, M/s. Ahmedia Agencies, M/s. Tax Styles, M/s. Personality, M/s. Premier Apparells, M/s. Bhoga Fabric Prints etc. for undertaking various processes like dyeing, bleaching etc. It was also noticed by the departmental officers that some of the fabrics were cleared by M/s.

BTP without payment of duty as if they have undergone the process of washing only. It was also noticed by the departmental officers that washing done in the factory according to them was a process involving washing with soda ash HCL etc. and also includes soap oil and for this process also they had claimed exemption under Notification 253/82 dated 8.11.1982. It is also alleged that they have cleared such fabrics on which duty was liable to be paid. However, they have cleared them without payment of duty by adopting various methods to evade payment of duty. Further facts as noticed from paras 4.5. to 5.6 of the order in original are reproduced below: 4.5. One of the major customers of M/s. BTP was M/s. Gokuldas Images, Bangalore from whom the different varieties of-fabrics were being received for processing. M/s. Gokuldas Images were raising two documents for delivery of the grey fabrics to M/s. BTP. One was the serially numbered 'Processing order' which inter alia gave the particulars of the fabrics sent and the process to be undertaken by the processor. The processing to be done were undertaken by M/s. BTP according to this order only. The other document raised by M/s.

Gokuldas Images was the processes challan which was also a serially numbered document and raised simultaneously which was sent with the fabrics for delivery to M/s. BTP. It is seen from the .perusal of the seized documents that there is manipulations in different copies of process challan. The original of the challan invariably mentioned the process to be undertaken as washing only whereas the office copy maintained at M/s. Gokuldas Images contained the actual process to be undertaken on the fabric. This was separately written in the same column "Processing Instruction" contained in the processing challan.

These instructions were always the same as quoted in the processing order such as to be dyed/for dyeing etc. In certain other cases, the column for processing instructions contained the description such as "As per Anand Kumar's instruction" in them. Both the documents were issued simultaneously on the same date and were with cross reference to each other in most cases. Although M/s. BTP were asked to dye the fabrics and they did so, the Central Excise documents and the invoices issued by them carried the endorsement as if the fabrics were subjected to washing only and were exempted from duty under Notification No. 253/82 or 297/79. Thus the fact of the actual process undertaken on these fabrics were wilfully suppressed from the department and the same were cleared without payment of duty.

4.6 From an examination of records seized from the factory of M/s.

BTP as well as the documents recovered from M/s. Gokuldas Images it appears that not only during the last six months, but over a period of more than one and half year, the above Modus operandl had- been followed by M/s. BTP for evasion of excise duty, while the actual processes carried out by M/s. BTP on the clothes supplied by M/s.

Gokuldas Images were liable to payment of excise duty, no such payment was made since the clearances were effected as if goods were subjected to processes like washing, calendering, scouring, drying and slanting etc. In respect of some cases it was noticed that while the gatepass mentioned the process as washing, scouring etc. the corresponding invoices show the process as dyeing & bleaching & the rates charged are Rs. 2.50 to 3.25 per meter in respect of dyeing and Rs.

1.50 for bleaching. In respect of the clearances made by M/s. BTP to M/s. Gokuldas Images a separate worksheet has been prepared showing the quantities cleared payment of duty and duty liability on such clearances which is detailed in annexure D.I enclosed to the show cause notice.

4.7 In respect of other customers like M/s. Premier Apparells Ltd., Bangalore, M/s. Personality, Bangalore, M/s. Balaji Creations, Bangalore etc., it appears that a similar modus-operandi was followed by M/s. BTP to evade payment of duty. However, as compared to the clearances made to M/s. Gokuldas Images, these were of a lesser quantity. The delivery challan or any such documents under which the fabrics were delivered to BTP were manipulated to show as if the process requested was washing only or calendering, scouring etc., and such fabrics were also cleared without payment of duty under the same relevant notification. Instructions were given by Sri Bipin A. Mehta to the staff to manipulate the records as such. In respect of the parties mentioned above, separate worksheets have been prepared showing the quantities cleared without payment of duty,-and the duty liability on such fabrics and the same is enclosed to this show cause notice as Annexures D.2, D.3, D.4 and D.5.

4.8 As stated above M/s. BTP were clearing fabrics subjected to dutiable processes like dyeing, bleaching etc., under the guise of fabrics subjected to process of 'washing claiming exemption under Notification No. 253/82 dated 8.11.1982 as amended washing is not a process listed out and recognised by the Notification for exemption.

It was also seen that there was distinct contradiction regarding the said process as understood by M/s. BTP and as understood by a major customer M/s. Gokuldas Images. While Sri Sampath Kumar, Director of M/s. BTP stated that washing is a process involving washing with soda ash HCL etc., and also includes soap oil, the fabrics Manager of M/s. Gokuldas Images stated that in general washing means to thoroughly soak the fabrics in water to remove the starch, dyeing the same in open air and return the fabrics to them. Thus, it could be seen that there was different versions of the process involved which indicates that such a process was never undertaken and that only dutiable processes were undertaken in the guise of washing.

This could be viewed against the factual position that there was no such machinery at the factory of BTP. 4.9 A perusal of the invoices raised by M/s. BTP show that in some cases the reference made in the invoices regarding the gatepass was wrongly quoted and in some instances no gate pass reference was available at all. Where gate pass reference was available invariably the gate pass was not meant for the party on whom the invoice has been raised. In rare cases where the same party was involved, the quantity as well as the identification numbers if any given in the gate pass/Invoice did not tally. A perusal of such invoices show that the rate charged on the party was either for the purpose of dyeing (varying from Rs. 2.50 to 3.25) or bleaching (Rs. 1.50 to Rs. 1.25). In a few cases it was also noticed that their own dyed fabrics has been sold to their sister concern M/s. Padmashree Arts and Prints within the same compound without payment of duty. The clearances of the above nature have been separately tabulated in Annexure D.6 enclosed to the show cause notice. The duty liability on such clearances is also indicated in the same Annexure D.6.

5. A perusal of the records recovered from M/s. Padmashree Arts and Prints located in the same compound as that of M/s. BTP indicated that in respect of orders placed by many parties in the name of M/s.

BTP for processes like bleaching and dyeing the orders placed were modified as if to show that the order was placed on M/s. Padmashree Arts and Prints, who had no facility for dyeing or bleaching of fabrics. After the required- processes were carried out on the fabrics so received, the same were cleared under the Delivery challan of M/s. Padmashree Arts and Prints and invoices were also raised on the parties for payment of processing charges. Since Padmashree Arts and Prints is capable ot doing only hand printing, they would not have been able to carry out the processes like bleaching and dyeing as ordered by the parties and these processes for which the bills have been raised by M/s. Padmashree Arts and Prints on their customers appears to nave been done by M/s. BTP and only the documents were raised in the name of Padmashree Arts and Prints to avoid payment of duty. Such clearances made in the name of Padmashree Arts and

Prints by M/s. BTP have been tabulated based on the records seized from the premises of M/s. Padmashree Arts and Prints under a mahazar. These details are available in Annexure D. 7 to the show cause notice. The duty liability on such clearances in the name of M/s. Padmashree Arts and Prints is also given in the same annexure.

5.1. In respect of clearances made by M/s. BTP during the period from 1.3.1989 to 31.8.1989 under the guise of washing, calendering etc., the details are available at Annexure D. 8 to the show cause notice which also as per the details given by Shri Bipin A. Mehta in his statement dated 7.9.1989. The duty liability on such clearances are also indicated in the same annexure.

5.2. Sri Bipin A. Mehta, Managing Director of M/s. BTP in his statement dated 7.9.1989 inter alia stated that he is looking after the day to day affairs of the company and Sri Sampath Kumar, another Director is looking after the factory, production, etc., that they process fabrics supplied by various parties; that they have got machines for doing the process of dyeing, bleaching, padding, calendering etc.; that on certain occasions, they had cleared fabrics which have undergone processes like dyeing, bleaching etc., claiming exemption under Notification No. 253/82 dated 8.1 1.1982 as if they had undergone processes like curing, calendering, washing etc,; that they regret for having cleared fabrics without payment of duty claiming exemption as if they have undergone exempted processes and that this was adopted only due to financial strain in the company; that in token of their genuineness they are paying an amount of Rs. K).()()()/- as 1st instalment of duty and that the lapses occurred due to ignorance and not with intention.

5.3. Sri Sampath Kumar, Director, M/s. BTP in his statement dated 6.9.1989 inter alia stated that he is one of the four Director of the Company; that the unit started functioning from May, 1987; that he is entirely in-charge of Processing in the unit and he knows the technicalities of the matter; that they have jiggers in dyeing section drying, padding, finishing machine in the Drying and Finishing section and Mini felt calender plain stenter and Bale processing machine in same section and boiler of 1 tonne capacity in the Boiler Section that they have another sister concern by name M/s. Padmashree Arts and Prints in the adjacent building and the partners of this are family members of Bipin A. Mehta; that the charges for the so called "washing" is same as for process like bleaching etc., since according to them washing is a process involving washing with soda ash, HCL etc., and also includes soap oil; that they do not have any separate machinery for washing.

5.4. Miss H.G. Nalini, Clerk, M/s. BTP in her statement dated 6.9.1989 inter alia stated that her duties includes maintenance of stock of raw material, finished goods, preparing of packing slips, Delivery challans invoices, that sometimes she attends to preparation of Delivery challan, invoices of M/s. Padmashree Arts and Prints as per instructions of Bipin A, Mehta; that the correction in the particular packing challan of M/s. Gokuldas Images has been made by her as per instruction of Mr. Bipin A. Mehta; that the rate of Rs. 7.50 per kg. may be for making, washing etc., and the rate of Rs. 19/- per kg. may be for processes like dyeing, bleaching etc.; that she as an employee has to prepare the documents as stated by Shri Mehta and that she has no say in that.

5.5. Sri Jagadish N. Hinduja, Partner, M/s. Gokuldas Images, Bangalore in his statement dated 9.9.1989 inter alia stated that they are engaged in the export of readymade garments; that they are buying grey cloth from Bombay Dyeing, Century Mills etc.; that they have sent their fabrics to M/s. BTP for washing or dyeing or curing etc.; that he is not able to give a definite reason for the discrepancy in the duplicate challan mentioning the processes like bleaching, dyeing while the original (processors copy) mentions only about washing; that the process challan is being used as a delivery documents which is followed up by a process order which specified the processes to be carried out.

5.6. Sri K. Anand Kumar, Fabric Manager, M/s. Gokuldas Images (P) Ltd., in his statement dated 9.9.1989 inter alia stated that he is responsible for placing orders on suppliers for both grey and processed fabrics; that on receipt of grey fabrics they are inspected for quality and quantity; that they also get fully processed fabrics from Bombay Dyeing/Hindustan Mills/Arvind Mills etc.; that they get the fabrics processed such as bleaching, dyeing, washing, brushing etc. through several processors including Bipin Textile Processors; that to send grey fabrics to the processing units they prepare process challans and processing orders; that in respect of BTP, they had sent grey fabrics for processing viz., for dyeing, bleaching and washing; that in general, washing means to thoroughly soak the fabrics in water to remove the starch, dry the same in open air and return the same to them; that he has seen the process challan and the connected process orders and that the instruction given in the challan is at variance with same given in the order that the processor would have done the processing as per the processing order only.

3. On the basis of the above allegations show cause notice was issued to the above appellants under the various provisions of the Act and the rules made thereunder. Demands were also raised and the appellants were asked to explain as to why they should not be penalised.

4. M/s. BTP in their reply dated 25.4.1990 had submitted that M/s. PAP is an independent concern and had nothing to do with M/s. BTP; that the demand made in the show cause notice is an imaginary and hypothetical conclusion; that the grounds and analysis based by the department in arriving at the demand as per the annexures has no basis and is not sustainable and therefore, they are not liable for duty or for penalty and hence the machinery and plants are not liable for confiscation; that the statements of Shri Sampath Kumar and Shri Bipin A. Mehta are taken under pressure and threat; that the conclusion drawn by the department on the basis of the statement of Jagdish N. Hinduja and Anand Kumar, factory manager, is not correct; that they have claimed exemption rightly on the fabrics subjected to certain processes for M/s. Gokuldas Images, and there might be some technical mistakes in writing the bills; that the process of the job work undertaken was only dampening which does not attract Central Excise duty; that there is no wilful suppression by them to evade payment of duty. Hence they are not liable to duty and penalty.

5. Anand Kumar, Fabrics Manager of M/s. Gokuldas Images in his reply dated 14.2.1990 had denied the allegation made against him. He had submitted that he used to issue instructions for getting the grey fabrics processed and the nature of process has been correctly indicated in the records of the Company and there was

no reason for him to manipulate the records; that he had no occasion to verify the documents, processing challans and that he deeply regrets for the irregularities and submitted that he had no intention to evade payment of duty.

6. Jagdish N. Hinduja in his reply dated 14.2.1990 had stated that he was not aware of any discrepancies in the processing challan; that there was no intention to violate any law.

7. Further reply was filed by M/s. BTP stating that exemptions under Notification No. 253/82 dated 8.11.1982 and 279/79 dated 24.11.1979 were correctly availed by them and the department did not properly interpreted the Notifications and the demands are not backed by any evidence and many of the processing order/challan and invoice would reveal there was no discrepancy of any sort; that the actual processing has been clearly indicated by them, in the processing challan; that they are neither aware of any corrections carried out by M/s. Gokuldas Images in the duplicate processing challan; nor did they carry out the processes other than the one indicated in the original process challans; that the statements of Ms. Nalini and Bipin A. Mehta are not reliable. They also stated that there was double entry in the show cause notice while demanding duty and the department had proceeded on a presumption with regard to misdeclaration alleged.

8. The other appellants viz. N. Sampath Kumar and Bipin A. Mehta also denied the allegations. The Collector after hearing all the parties has analysed the entire evidence on record and concluded that there was violation of the notifications and there was misdeclaration, suppression of fact and clandestine removal of the goods and hence duty is required to be confirmed.

9. We have heard Shri G. Sampath, learned Counsel for the appellants and Mrs. Aruna Gupta, learned DR.10. Shri G. Sampath, learned Counsel for the appellants pointed out that the appellants had carried out only the specified processes as mentioned in the Notification. He submitted that no other processes other than the ones specified in the Notification are carried out by the appellants viz. M/s. BTP. It was contended that no such processes had been carried out which would dis-entitle the appellants from claiming the benefit of the Notifications. The appellants

had carried out only the processes such as calendering and scouring which were exempted from payment of duty in terms of the Notification and in respect of the some fabrics they were subjected to process such as bleaching, dyeing and they were cleared on payment of duly. He further submitted that there were 87 challans involved in the matter. They had filed detailed statement challan-wise out of the invoices and there was misdeclaration in 25 challans. In 45 invoices, the fabrics received by them were subjected to washing and calendering that is the process specified in the Notifications. Hence there was no misdeclaration and therefore there was no question of imposing any penalty on appellants M/s. BTP. There was no admission that challans of M/s. Gokuldas Images were corrected and that they had maintained duplicate set of challans.

He has pleaded that M/s. BTP are not aware of any corrections made by M/s. Gokuldas Images. He pointed out that Annexures D-2 to D-6 related to various other parties. The findings that M/s. BTP adopted the same modus operandi is not supported by any proof. Letters were produced in regard to the specified processes carried out by them. He submitted that 513 challans had been produced to correlate and the evidence in respect of the parties had also been produced. The parties had also replied. He pointed out to volume one of the paper book in regard to the evidence on record. He pointed out that no finding has teen in regard to the enormous evidence produced and hence the order is not a speaking order.

11. He further pointed out that in respect of M/s. Padmashree Arts and Prints, there was no finding that they were carrying out activities with the aid of power. The finding arrived at is on the basis of presumption. He also pointed out that there are different rates of value of the goods and hence calculation had not been properly done. He further pointed out that the statements recorded were retracted later and counter-evidence has been produced. This rebuttal has not been considered. He further pointed out that mahazar had clearly indicated that M/s. BTP had vessels for carrying out the bleaching operation. He further pointed out that duty has to be calculated as per the value, which had not been done. He further submitted that penalty cannot be imposed. He further submitted in similar matters, the Tribunal had remanded the matter for de nova consideration to verify whether the other processes were being carried out or not. In support of his

contention he referred to the order No. 364 to 371/97 dated 30.1.1997 in the case of Vibgyor Textiles v. CCE, Bangalore 1997 (70) ECR 856 (T), Order No. 2224/96 dated 4.11.1996 in the case of Shreyas Enterprises v. CCE, Bangalore and 12. In reply, the learned DR submitted that the appellants were carrying out activities other than those specified in the Notification.

She pointed out that the appellants had two sets of challans. One set of challan was for washing, while the other set gave details other than processing. They have not been able to give any explanation in respect of the discrepancy. M/s. Padmashree Arts and Printing had facility only for printing but had no facility available for processing. They have raised invoices stating that they were doing bleaching and dyeing etc.

Orders had been placed on M/s. BTP but the records showed as if the orders had been, placed on Padmashree Arts & Prints as all the activities were being carried out by M/s. BTP. Hence the demand was confirmed on them. The employees have clearly admitted having done the offence on the basis of the instructions given by the Director of M/s.

BTP. The statements given by the director of M/s. BTP and others are inculpatory in nature and clearly admit of the facts as alleged. The learned DR submitted that all the facts pertaining to the activities other than the specified activities in the Notification are available on record and therefore, the question of remand of the matter for verification does not arise. She pointed out that it was the Supdt. of Central Excise who carried the verification regarding those activities carried out by appellants M/s. BTP. Gate pass had also indicated that activity was washing only but the corresponding invoices indicated that the activity of bleaching and dyeing was carried out. M/s. BTP maintained registers section-wise and clearly showed from the registers themselves that they were carrying out activity of dyeing and bleaching and therefore the Tribunal orders relied upon by the appellants are clearly distinguishable. She pointed out that in the cited cases, the findings were not clear about the appellants carrying out those activities and therefore, the Tribunal had remanded the matter making it clear that if the activities which are not exempted are carried out, then duty is required to be confirmed. The learned

Counsel countered that all those activities which were not exempted had been cleared only on payment of duty.

13. On consideration of the submissions made, we notice that the Tribunal ruling cited by the learned Counsel for the appellants had remanded the case for verification of the fact of the assessee carrying out the processes other than the ones indicated in the Notification and the Tribunal has clearly laid down that if there is evidence that the other processes having been carried out on the same fabrics, duty would be demandable. This finding is given in the case of Mis. Shreyas Enterprises. Same finding has been given in other cited cases also.

Therefore, what has to be seen in the present case is as to whether the processes which are not exempted have been carried out by the appellants M/s. BTP in their factory. The department has relied upon enormous evidence including inculpatory statements of the employees and admissions made by the job workers. In the present case the department has also got the verification done from the Supdt. which revealed that Gokuldas Images have machinery like jiggers and other machinery to carry out the processes like bleaching, dyeing which are processes not specified in the table appended to the said Notifications and which processes are being carried out in the same factory where processes like calendering, scouring etc. specified in the table appended to the Notifications are also being done. The notifications have been clearly interpreted by the Collector and he has given a finding that the unit M/s. BTP had carried out the activity not exempted under the Notifications and they are therefore liable to pay duty. The Collector has also found that the appellants M/s. BTP have not adduced any specific or substantial evidence in regard to their claim that there was no misdeclaration. Initially Miss Nalini, Sam path Kumar, and Bipin A. Mehta had clear)' admitted those processes which were not covered by the Notifications were also being carried out and they have also indicated about the modus operandi adopted by appellants M/s. BTP. The statements were given voluntarily without any coercion and threat.

These employees have not proved that the statements were obtained under threat or coercion. It is noted from the statement of Bipin A. Mehta that he was looking after the factory's day-to-day affairs and that Shri Sampath Kumar, another director is looking after the factory production. They processed fabrics supplied by various parties and they have got machineries for dyeing, bleaching, padding, calendering etc.

Shri Bipin A. Mehta had clearly admitted that the appellants M/s. BTP had cleared fabrics under gate passes claiming exemption in respect of goods which had undergone bleaching and dyeing. He has given details of the annexures and the gate passes under which the modus operandi was adopted which has been annexed to his statement as Annexure A and B. He admitted the correctness of the same and has written details of the statement and annexures showing GP number and the quantity and the approximate value in his own handwriting. He has also given Annexure B showing the processes carried out such as calendering and scouring etc.

They regretted for having cleared the fabrics without payment of duty and claiming exemption as if they had undergone exempted processes and he stated that this method was adopted only due to financial strain in the Company and that in token of their genuineness they are paying Rs. 10,000/- being first instalment of duty for fabrics cleared without payment of duty. He requested for leniency as the appellants M/s. BTP are a small scale unit doing the processing of cotton fabrics with limited financial resources. He has given assurance that such lapses will not occur in future. He stated that the lapses occurred due to ignorance and not intentional. Even though they had cleared fabrics claiming exemption under Notification 253/82, they have not been benefited.

14. Statement of Bipin A. Mehta is corroborated by the statement of Sampath Kumar, Director of the appellants M/s. BTP, who is the incharge of production. In his statement he clearly admitted that M/s.

Padmashree Arts & Prints is housed adjacent to the same building; there is only one single electricity meter for both the units and electricity charges are paid by M/s. BTP only. There is only lighting facility in Padmashree Arts & Prints and there is no other electrical connection, common watch and ward personnel are posted in respect of both the units, wages are paid by M/s. BTP only, Nalini wrote the account of M/s. BTP also prepares the invoices of Padmashree Arts & Prints and she also signs for the same, she is paid by M/s. BTP and no salary is paid by Padmashree Arts & Prints, Padmashree Arts & Prints is a partnership firm and partners are family members of Bipin A. Mehta, MD. She admitted, in the absence of Bipin A. Mehta, she signs all the invoices.

She also gave the details of the manner in which the activity was carried out.

15. Nalini in her statement corroborated that the activity of bleaching, and other activities were carried out at the instructions of Bipin A. Mehta and challan and invoices are prepared as per the instructions of Bipin A. Mehta. She gave the manner in which the challans and other documents were prepared and that correction in the particular packing challan of Gokuldas Images has been done by her as per the instructions of Bipin A. Mehta.

16. Jagadish N. Hinduja, Partner of M/s. Gokuldas Images admitted of sending fabrics to M/s. BTP for washing, dyeing or curing etc. He also admitted of maintaining duplicate challan and signing the same. He also stated that delivery challans were prepared by one Mohan, clerk. He admitted having paid the rates in terms of the processes carried out by M/s. BTP.17. Anand Kumar, Fabric Manager of Gokuldas Images also admitted regarding carrying out the activities which are not listed in the notifications like dyeing and bleaching etc. in the factory of the appellants M/s. BTP.18. All these statements clearly indicate that the appellants M/s. BTP had carried out activities which are not listed in the notifications and had manipulated records with the active connivance of Gokuldas Images. The Collector has dealt with all these admissions in great detail. The appellants have given copies of the duplicate challans which tally with the invoice of M/s. BTP. We have perused the entire paper book and records relied upon by the department. On consideration of the evidence on record we notice that there is no infirmity in the order and the duty calculation has been done correctly in terms of the admissions given in their own handwriting. We note that in the face of the admissions, the appellants cannot rely on the Tribunal orders remanding cases in which there was no verification of the record. In the present case, the party has admitted the offence as the party has given details of the invoice and challans and

also the working out in the annexures. The same has also been verified and authenticated and all the evidences drawn have been carefully scrutinised and yet the pleadings and arguments now made contrary to the records are not acceptable. We do not find any reason to grant any relief to the parties in the present case. There is active connivance of the persons on whom penalties have been imposed. Therefore there is no relief required to be granted to any of the parties in view of the categorical admissions making clear the modus operandi of the entire affair. It is another matter if there was no evidence on record for remanding the case for de novo consideration in the light of the cited orders.

Further the evidence on record of those cited cases is not before us to verify as to whether there was any statements of admissions in those cases. Therefore, the cited cases of remand cannot be followed in the present case in view of the clear admissions by the Managing Director of the appellants M/s. BTP which is corroborated by other persons, including the regret expressed by the Managing Director for the lapses and his offer of making payment of duty of Rs. 10,000/-. We therefore, do not find any merit in the appeals and hence the appeals are dismissed.