J.S. Knitters Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-15-2000

Reported in : (2000)(120)ELT367Tri(Mum.)bai

Appellant : J.S. Knitters

Respondent : Commissioner of Central Excise

Judgement :

1. The application is for waiver of deposit of duty of Rs. 9.54 lakhs.

The duty has been demanded on the ground that pleating of fabrics undertaken by the applicant is a process of manufacture within the meaning of note to chapter 54 of the Tariff.

2. The representative of the applicant contends that during June, 1995 for which duty had been demanded, a Trade Notice No 13/84 of the Commissioner was in force, according to which the process would not be a process of manufacture. This trade notice was replaced by a later trade notice holding the process to be manufacture only in August, 1997. Therefore no duty is payable.

3. The departmental representative says that according to a number of judgments of the Supreme Court, the Commissioner was bound by the Circular of the Board holding the process to be manufacture.

4. We have considered these submissions. We have also considered an opinion dated 4-8-1997 of the Silk & Art Silk Mills, Research Association (SASMIRA for

short) produced by the representative of the applicant. This opinion seems to suggest that pleating is not of permanent nature. Washing at 60C followed by mild ironing removes the pleating. This seems to suggest the process by the applicant is temporary and hence not manufacture, although the opinion is not entirely free from inconsistencies. The earlier Trade notice which was in force in June, 1995 also prima facie favours the applicant. In these circumstances we consider it appropriate to ask the applicant to deposit Rs. 1 lakh towards the duty demanded within two months from today and to report compliance on 20-6-2000, upon which we waive deposit of duty and stay its recovery.