

**Commissioner of Central Excise Vs. Gujrat Ambuja Exports Ltd.**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

**Decided On :** Apr-12-2004

**Judge :** S T S.S., K Kumar

**Appellant :** Commissioner of Central Excise

**Respondent :** Gujrat Ambuja Exports Ltd.

**Judgement :**

1. Respondents absent. From the records it is seen that they are habitual absentees. The matter is therefore taken up for final disposal.
2. The issue involved is whether due to amendment to notification 8/97 vide 11/2000, the Respondents were required to pay Additional Duty of Excise(ADE) on clearance to Domestic Tariff Area, the Respondents being an 100% EOU.3. The Respondents rely upon notification 55/91 exempting the said duty read Board's instructions on 384/17/98-CX dated 20/3/98 stipulating that Notification No. 55/91 would be available & cannot be stipulated that benefit of notification 55/91 would be available and cannot be considered by notification 8/97.
4. Revenue submits that Notification No. 11/2000 amending Notification 8/97 is very clear & has been clarified by Board vide No. 554/50/2000 CX dt. 19.10.2000 which stipulates the disputed levy to be discharged.
5. Issue has been dealt with and settled vide Parasrampur International (2002(52) RLT 545 wherein both the Board's Circular have been discussed along

with scope of 55/91 & 8/97 amended by 11/2000 & the plea that notification 55/91 would continue to grant benefit for exemption was dismissed. The decision has been arrived at after following the decision of Punjab & Haryana High Court in case of Vardhman Polyester Ltd. 2001 (135) ELT 17(P&H).

6. Another Bench of (this Tribunal in the case of CCC v. Ginni Filaments Ltd 2003 (54) RLT 640 after considering the very same issue & the applicability of circulars of Board as held by S.C in the Dhiren Chemicals (22001(47) RLT 881 & 2002 (57) RLT 260 SC & did not uphold the non levy. The Bench also referred to the decisions mentioned by CCEC (Appeal) in the order now impugned before us. The appeal of Revenue on very same issued thereafter allowed.

8. Consequently, following the two decision on very same issue viz Parasrampur International (2002(52) RLT 545 & in Gini Filament Ltd 2003 (ELT) RLT 640, this appeal of Revenue is to be allowed after setting aside the impugned order of CCE(Appeal).

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