

Ranjan Polyesters Limited Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-04-2006

Reported in : (2006)(107)ECC450

Judge : M T K.C.

Appellant : Ranjan Polyesters Limited

Respondent : Cce

Judgement :

1. This stay application is filed for staying recovery of duty of Rs. 3,45,198/- and penalty of Rs. 10,000/ 2. It was argued for the applicants that with effect from 1.4.2003, tariff structure for textile was changed and Rule 9A was introduced in CENVAT Credit Rules, 2002. The applicants were manufacturing polyester texturized yarn out of POY received by them as inputs. They have taken credit of duty paid on POY lying in stock or contained in texturized yarn lying in their factory as on 31.3.03. The department has objected that they are not eligible for credit of duty paid on POY in case of dyed and twisted yarn manufactured from duty paid texturized yarn. Therefore, they have taken excess credit which has been demanded by the lower authorities. It was argued that they are eligible for taking credit of duty paid on POY. They have already pre-deposited Rs. 85,000/- under PLA Entry No. 2 dated 25.8.2005. This may be treated as sufficient compliance of Section 35-F of the Central Excise Act and recovery of the remaining amount may be stayed.

3. It was argued for the Revenue that CENVAT credit was not admissible on POY which was used in the manufacture of texturized yarn cleared on payment of duty before 1.4.2003. The applicants had used POY for manufacture of texturized yarn which was cleared for captive use on payment of duty. Therefore, the credit was admissible for the duty paid on texturized yarn lying in stock as such and duty paid on texturized yarn contained in the finished dyed and twisted yarn. Therefore, the applicants have taken excess credit.

4. On considering the submissions made by both the sides, I find that the eligibility of credit on POY in respect of duty paid texturized yarn lying in stock and used for dyeing and twisting requires detailed examination. Since the applicants have already deposited an amount of Rs. 85,000/-, this is sufficient amount for compliance of Section 35-F of the Central Excise Act. Therefore, the recovery of the balance amount in dispute is waived for hearing the appeal. The appeal shall come up for hearing in due course.

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