Customs, Excise and Gold Tribunal - Tamil Nadu
Idumban Knitters vs Cc on 23 July, 2003
Equivalent citations: 2003 (111) ECR 849 Tri Chennai
Bench: S Peeran, R K Jeet
ORDER Jeet Ram Kait, Member (T)

1. This appeal is directed against the order in Appeal No. C.Cus. 514/2002 dt. 31.10.2002 by which the Commissioner (Appeals) has upheld he order of the lower authority denying the benefit of exemption from levy of 10% CVD in terms of Notification No. 29/97 dt. 1.4.1997 as amended and confirmed the duty demand of Rs. 8,73,234/-.

2. As the matter lies in a short compass, and it is covered by the decision of this Bench in the matter of Premina Exports and 24 Ors. v. CC, Chennai vide final order No. 1043 to 1069/2002 dt. 17.9.2002 : 2002 (105) ECR 841 (T) and also in the matter of Guruhari International v. CC, Chennai vide final order No. 1233/2002 dt. 7.11.2002, after waiving the requirement of pre deposit for hearing this appeal, we take up the main appeal itself for decision as per law.

3. Appearing on behalf of the appellants Ld. counsel Shri R. Ganeshan submitted that the department had disallowed them the benefit of Notification No. 29/97 dt. 1.4.1997 and confirmed the demand of Rs. 8,73,234/- on the ground that the 7 sets of knitting machines were only a fabric processing/making machine and were not required for manufacture of garments, since it was not capable of producing/manufacturing any garment and the end product manufactured out of the imported Knitting machine was only a unprocessed knitted fabrics. Ld. Counsel further submitted that in terms of the Notification No. 29/97-Cus. Dt. 1.4.1997 machinery for manufacture of textile garments which were exempted wholly both from the BCD as well as ACD and it is only in respect of machinery, which were not intended for textile garments. The notification authorised to levy ACD at concessional rate of 10% for goods imported under EPCG scheme. He further submitted that they had obtained EPCG licence for zero rate of duty both for BCD and ACD and the Customs Authorities cannot nullify this benefit. Therefore, he submits the findings of the lower authority that the knitting machine in question could not be considered as machine for manufacture of textile garment is not legal and proper. He also submitted that knitting of fabrics and making of textile garment is an integrated process in the appellants factory and it is a well settled legal position that the machinery imported is for manufacture of textile garments only. He also submitted that the matter is no longer res integra in view of the decision rendered by ERB, Kolkota in the matter of Rupa and Co. Ltd. v. CC, Kolkota reported in 2002 (49) RLT 953 (CEGAT) : 2002 (103) ECR 100 (T). He also relied on the decisions rendered by this Bench in the case of Bremina Exports and 24 Ors. v. CC, Chennai vide final order No. 1043 to 1069/2002 dt. 17.9.2002 and that of Ruina Kotex Ltd. v. CC reported in 2002 (103) ECR 925 and the decision rendered by this Bench in the case of Sri Guruhari International v. CC vide final order No. 1233/2002 dt. 7.11.2002.

4. Ld. JDR Shri C. Mani appearing for the Revenue perused the judgments rendered by the Tribunal and leaves the matter to the discretion of the Bench.

5. We have considered the rival submissions made by both sides. Respectfully following the decision rendered by this Bench in the case of Premina Exports &, 24 Ors. v. CC, Chennai, vide final order No. 1043 to 1069/2002 dt. 17.9.2002 and Sri Guruhari International v. CC, Chennai vide final order No. 1233/2002 dt. 7.11.2002 and that of the co-ordinate Bench in the matter of Rupa and Co. v. CC, Calcutta reported in 2002 (49) RLT 953 and Ruia Kotex Ltd. v. CC. Reported in 2002 (103) ECR 925 (T), we allow this appeal by setting aside the impugned order with consequential relief, if any, as per law. Stay Petition and early hearing petition are also disposed of. Ordered accordingly.