IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CEA No.171 of 2006 (O&M)

Date of Decision: 15.02.2016

Commissioner of Central Excise Commissionerate, Delhi-V, Rohtak.

. . . Appellant

Versus

M/s Friends Spinners (P) Limited.

. . . Respondent

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. Kamal Sehgal, Advocate
for the appellant.

None for the respondent.

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Ajay Kumar Mittal, J. (Oral)

The Additional Commissioner (AE) Central Excise Commissionerate vide Order-in-Original dated 19.04.2001 has passed the following orders:-

"1. I confiscate polyester synthetic yarn weighing 2100 kgs valued at Rs.1,18,020/- under rule 173-Q of the Central Excise Rules, 1944 but give an option to the party to redeem the same on payment of Rs.30,000/- as redemption fine;

2. I confirm the demand of Rs.5,849/- under Section 11A of the Central Excise Act, 1944 which

was leviable as central excise duty on shoddy yarn weighing 1218 kgs removed clandestinely;

3. I also confirm the demand of Rs.3,30,230/- under Section 11-A which was leviable on 53450 kgs of polyster synthetic yarn cleared in the guise of shoddy yarn.

4. An amount of Rs.1,83,051/- leviable as central excise duty on 15735 kgs of polyster/synthetic yarn removed clandestinely is confirmed under section 11-A of the Act ibid.

5. I also impose a penalty of Rs.5,19,130/- under section 11-AC and order for recovery of interest under section 11-AB of the Act ibid.

6. I also impose a penalty of Rs.50,000/- on the party under rule 173-Q of the Central Excise Rules, 1944."

2. It was not disputed by learned counsel for the revenue that the tax effect involved in the matter is less than ₹ 15 lacs, which is the monetary limit prescribed in the instructions dated 17.12.2015 and 01.01.2016, issued by the Central Board of Excise & Customs, New Delhi.

3. Learned counsel for the appellant submitted that keeping in view the above instructions, the appeal be dismissed as withdrawn. However, he prayed that liberty be granted to the revenue to file an application for revival of the appeal in case something survives therein.

4. Dismissed as withdrawn with liberty as prayed for. It is, however, clarified that withdrawal of the appeal by the revenue

shall not be taken to be affirmation of order of the Tribunal on merits. Further, the legal issue as claimed by the revenue is being left open to be adjudicated in an appropriate case.

[AJAY KUMAR MITTAL]
JUDGE

[RAJ RAHUL GARG]
JUDGE

15.02.2016
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