

SOS from textile sector.

(By Swamy Associates)

The hangover of the "Textile Levy", which was in force for a brief period from 01.04.2003 to 8.07.2004, still lingers around. During the above period, even though bulk of textile sector were ineligible for the benefit of the SSI exemption under Notifications 8/2003 and 9/2003, "articles of apparel" such as raincoats, undergarments and garments made out of handloom fabrics, were eligible for the said SSI exemption. In other words, the manufacturers of undergarments such as briefs and vests etc., were eligible for the SSI exemption upto a value of clearance of Rs.1 Crore under the relevant SSI notifications. Despite being exempted upto 1 Crore, these "articles of apparel", were unintentionally stripped of the benefit, which is the feedstock of this article.

The manufacturing cycle of "articles of apparel" starts from the stage of yarn, moves on to weaving of knitting / fabrics and then to processing of such fabrics (bleaching, dyeing etc.) and finally getting stitched to result in the final product, viz. the "garments". In this textile manufacturing cycle, "fabric" is an important intermediate product and processing of such fabrics, is a significant manufacturing process.

As per Notification 8/2003, all clearances of "specified goods", and "specified goods" which are used as inputs for further manufacture of any "specified goods" within the factory of production are exempted from payment of duty of excise. In other words, apart from the final products, the intermediate products emerging during the process of manufacture and captively consumed for the manufacture of such final products, for which the benefit of SSI exemption is availed, are also exempted from payment of duty of excise. The value of such intermediate products is also not taken into account for the purpose of determining the exemption limit of Rs. One Crore. From the above, it may be observed that, in order to claim the benefit of this exemption for the intermediate products, such intermediate products must also be "specified goods".

The term "specified goods" refers to the goods mentioned in the Annexure appended to the Notification. As per the said Annexure, all goods specified under the first

schedule to the Central Excise Tariff Act, 1985, other than those goods mentioned in the Annexure, are "specified goods" and are eligible for the benefit of SSI exemption.

It may be observed that, the intermediate products viz. "Processed Fabrics" are excluded from the ambit of the SSI notifications as per the annexure to the said notifications as it stood during the relevant period of time. In other words, even though the above said articles of apparel were exempted upto a value of One Crore as per the SSI notifications, their prime intermediate product viz. "Processed Fabric" are not exempted under the said SSI notifications, even if they are captively consumed in the manufacture of such garments. This is because of the reason that such "Processes fabrics" are "Unspecified" as per the SSI notifications. This anomaly lead to a situation that even though the final products viz. under garments etc., are exempted upto Rs.One Crore, the manufacturers are made liable to excise duty on their intermediate products viz. "Processed Fabrics". Most of the manufacturers of under garments are really small scale and their turnover would be well within the exemption limit of One Crore in a financial year. By the above said anomaly, such small scale manufacturers, who were extended the benefit of the SSI exemption for their final products upto a value of Rs.1 Crore, are being made liable for payment of excise duty on their intermediate products, viz. "Processed Fabrics". This is definitely not the intention of the legislature. We have come across plethora of notices, whereby, all the above said unfortunate tiny manufacturers are slapped with Show Cause Notices demanding duty on their intermediate products, viz. "Processed Fabrics". Considering the general prevalent practice of non payment of duty, and also considering the intention behind the exemption, it is time the Government issues an appropriate notification under Section 11C of the Central Excise Act, thus exempting the unspecified intermediate goods of the textile sector, which are used as inputs for the further production of final products, for which the benefit of the SSI exemption was available and thereby save this segment of textile sector, from the injuries of non payment of duty, interest or penalty.

We hope that the benevolence shown to newsprint in reels would be extended to the "intimate" garments too.

Before parting...

Even if the condition that the intermediate products in question must be "specified goods" is done away with, by way of issue of a Section 11 C Notification, the real benefit would not percolate to the intended beneficiaries. As per the table of the SSI Notifications, "specified goods" manufactured and captively consumed "within the factory" production alone are exempted. In textile sector, most of the manufacturing processes are done on job work basis, outside the premises of the main manufacturer. On this ground, the benefit of the exemption would be denied. Even though, in normal cases it can be argued that the duty demand should be made only against the job worker, who is the actual manufacturer, by virtue of the special procedure prescribed for the textile sector, viz., erstwhile Rule 12 B of the Central Excise Rules, 2002, the duty demand in this case would befall only upon the manufacturers of "articles of apparel".

Hence, by this article, we make a fervent appeal to the Government, to exempt the processed fabrics, manufactured either in the factory of production of "articles of apparel" or in the premises of job workers, which are further used as inputs for further manufacture of "articles of apparel" , for which the benefit of SSI exemption is claimed.