

DYE HARD

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Excise on Textiles has been a pursuit to Mackenna's Gold. With surprises unlimited, every time we try to explore it, we land up with a new dimension. In this article, we try to surface one such dimension.

Notification No.38/2003 dated 30th April, 2003 was issued, wherein inter alia, there was a effective rate of duty specified at the rate of 5 % and 8 % for the following goods, viz., (a) Woven fabrics of cotton not containing any other textile material and (b) other woven fabrics of cotton respectively when subjected to one or more of the following processes viz.,

- (1) Calendering (other than clandering with grooved rollers) ;
- (2) Flannellette raising ;
- (3) Stentering
- (4) Damping on grey and bleached sorts ;
- (5) Back filling on grey and bleached sorts ;
- (6) Singering, that is to say, burning away knots and loose ends in the fabrics ;
- (7) Scouring, that is to say, removing yarn size and natural oil found in cotton ;
- (8) Cropping and butt cutting ;
- (9) Curing or heat setting ;
- (10) Padding, that is to say, applying starch or fatty material on one or both side of fabric ;
- (11) Expanding or
- (12) Hydro extraction with aid of power, that is to say, mechanical extracting or mechanical squeezing out water from fabric.

Provided that process of bleaching, dyeing or printing or any one of more of these processes have been carried out on such fabrics without the aid of power or steam.

From the above, it is lucid and clear that, cotton fabrics which are dyed, bleached or printed without the aid of power are subjected to a reduced rate of duty even if, the other processing as listed above are done with the aid of power. However, an interesting question arises as to whether the benefit of this notification could be extended to a manufacturer who does not undertake any of the said processes of dying, bleaching or printing but carries on some of the processes out of the aforesaid 12 process with the aid of power. Since the proviso to the notification clearly states that any one or more of the processes of bleaching, dyeing or printing should be carried out without the aid of power, the question of non performing of any of the said three processes while claiming the benefit of the impugned notification does not arise.

Furthermore intriguing is whether the manufacturer is required to carry out all the said three processes mentioned in the proviso without the aid of power or any one or more of these processes without the aid of the power or any one process without the aid of power and the rest with the aid of power for purpose of availing the benefit of the notification. On a plain reading of the proviso, it is clear that carrying out any one of the three processes without the aid of power is enough for availing the benefit of the notification. Hence, it is not necessary to go into the details of the rest of processes as to whether they are being carried out or not and if carried on whether with the aid of power or not.

Textile industry has a variety of tributaries to reach the stage of processed fabrics. Dyed fabrics could be got either from dyeing the yarn and subsequently weaving into fabrics or yarn could be woven into a grey fabric and subsequently dyed. In the case of former it is an unprocessed fabric, whereas in the latter, it is a processed fabric. Now the above reduced rate is available with a condition that the fabrics are dyed or bleached or printed without the aid of power, which leads to a big question about the status of the fabric woven from the yarn which are dyed without the aid of power.

Though, for the purpose of the Excise Act, it could be stated that the former is an unprocessed fabric and latter a processed fabric, in the commercial parlance both the fabric would remain only as dyed fabric. Hence when the products are not distinguished commercially, the purpose of distinguishing the products by levying different rates of duty is not understood. Is the Government encouraging dying of fabrics only?