**SUPREME COURT OF INDIA**

Collector of Central Excise, Bombay

Vs.

Maharashtra Fur Fabrics Limited

C.A.No.685 of 1995

(Syed Shah Mohd. Quadri, Y.K. Sabharwal JJ.)

24.9.2002

**ORDER**

**Syed Shah Mohd. CJI.**

1. This appeal is filed by the Collector of Central Excise, Bombay against the order, No.E/254/94-D, of the Customs, Excise and Gold (control) Appellate Tribunal in Appeal NO. E/4217/90-D dated 29th April, 1994. By the impugned order, the Customs, Excise and Gold (Control) Appellate Tribunal (for short, `the Tribunal') set aside the order of the Collector (Appeals), Bombay, affirming the order of the Assistant Collector holding that the respondent is entitled to the benefit of Notification No. 109/1986-C.E. dated 27th February, 1986, as amended by Notification No. 3/1988-C.E. dated 19th January, 1988 (for short, `the Notification').

2. The question that arises for consideration is: whether the respondent is covered by the proviso inserted in the notification ?

3. The respondent-assessee manufactures high fur fabrics by sliver knitting process. In Classification List No. 1/1987 dated 10th March, 1987 filed by the respondent, the product was classified under Heading 60.01 and benefit of the said notification was claimed attracting `nil' rate of duty. There is no dispute that the respondent was entitled to the exemption granted under the said notification till 19th January, 1988 when the proviso was inserted therein.

4. It would be useful to read Notification No. 109/1986-C.E. dated 27th February, 1986, as amended by Notification No. 3/1988-C.E. dated 19th January, 1988 here:

> "In exercise of the powers conferred by sub-rule (1) of rule 8 of the Central Excise Rules, 1944 read with sub-section (3) of the *Additional Duties of Excise (Goods of Special Importance) Act, 1957* (58 of 1957), the Central Government hereby exempts woven pile fabrics and chenil fabrics, tufted textile fabrics and knitted or crocheted fabrics falling under Heading No. 58.01 or 60.01 of the Schedule to the *Central*

*Excise Tariff Act, 1985* (5 of 1957) as is in excess of the duty of excise and the additional duty of excise leviable under the aforesaid two Acts on the corresponding woven fabrics falling under Chapter 51, 52, 53, 54 or 55 of the said Schedule, read with any notification for the time being in force.

Provided that nothing contained in this notification, shall apply to knitted or crocheted fabrics of man-made textile materials falling under sub-heading No. 6001.12 of the said Schedule and subjected to the process of bleaching, dyeing, printing shrink-proofing, tentering, heat-setting, crease resistant processing or any other process or any two or more of these processes.

*Explanation* :- For the purpose of this notification, the expression, `corresponding woven fabrics' means fabrics specified in Chapter 51, 52, 53, 54 or 55 which corresponds to knitted or crocheted fabrics with reference to the processes carried out thereon, or the value of the fabric per square meter the textile material contained therein.

2. This notification shall come into force on the 28th day of February, 1986."

5. The notification disclose that the benefit available to sliver pile fabrics falling under Heading 58.01 or 60.01 of the Schedule to the Central Excise Tariff Act, 1985 is lost if the product is subjected to the process of bleaching, dyeing, printing, shrink proofing, tentering, heat-setting, crease-resistant processing or any other process or any two or more of these processes.

6. A careful reading of the proviso to the notification would show that by resorting not only to the process of bleaching, dyeing, printing, shrink proofing, tentering, heat-setting, crease-resistant processing, but also to "any other process or any two or more of these processes", the respondent would lose the benefit of the exemption. It is a well established principle that general terms following particular expressions take their colour and meaning as that of the preceding expression, applying the principle of *ejusdem generis* rule, therefore, in construing the words "or any other process", the import of the specific expressions will have to be kept in mind. It follows that the words "or any other process" would have to be understood in the same sense in which the process, including tentering, would be understood. Thus understood, a process akin to stentering/tentering would fall within the meaning of the proviso and, consequently, the benefit of the notification cannot be availed by the respondent.

7. In the reply to the show cause notice issued by the Assistant Collector, Central Excise, Panvel Division, the respondent stated, "the acrylic emulsion is water based and hence the fabric has to be dried. *For this purpose,* it is passed through hot air stenter." The respondent sought to explain this with reference to the certificates given by the manufacturer of the machine to say that the process does not amount to stentering.

8. The Assistant Collector found that the respondent was using the process of stentering. On appeal, the Collector (Appeals), having inspected the manufacturing process in the factory of

the respondent, affirmed the view of the Assistant Collector that stentering process was being resorted to by the respondent. However, on further appeal by the respondent, the Tribunal, after referring to the expert opinion and the dictionary meaning of the words "stentering" and "tentering" held that no process of stentering/tentering is being carried out.

9. Even accepting the Tribunal's finding that the process does not strictly amount to stentering, it cannot be disputed that the process adopted by the respondent is analogous to stentering, as admittedly, the respondent is drying the fabric by passing through the hot air stenter.

10. In this view of the matter, the proviso clearly applies and the respondent, therefore, is not entitled to the benefit of the notification. The order under appeal is set aside.

11. The civil appeal is, accordingly, allowed. In the facts and circumstances of the case, we make no order as to costs.