# आयुक्त का कार्यालय, (अपीलस)
## Office of the Commissioner,

केंद्रीय जीएसटी, अहमदाबाद आयुक्तालय
**Central GST, Appeal Commissionerate- Ahmedabad**
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.
CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015
☎: 079-26305065 टेलेफैक्स : 079 - 26305136

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क फाइल संख्या (File No.) : **V2(39)232&233/North/Appeals/ 2018-19** / 10957 to 10962

ख अपील आदेश संख्या (Order-In-Appeal No.): **AHM-EXCUS-002-APP-28&29-19-20**
दिनांक (Date): **24/05/2019** जारी करने की तारीख (Date of issue): 04/06/2019
श्री उमा शंकर, आयुक्त (अपील) द्वारा पारित
Passed by **Shri Uma Shanker , Commissioner (Appeals)**

ग _____ आयुक्त, केंद्रीय उत्पाद शुल्क, (मंडल-III), अहमदाबाद उत्तर, आयुक्तालय द्वारा जारी मूल आदेश सं _____ दिनांक _____ से सृजित
Arising out of Order-In-Original No **15/AC/D/NKS/18-19** Dated: **01/07/2019**
issued by: **Assistant Commissioner**-Central Excise (Div-III), Ahmedabad North,

घ अपीलकर्ता/प्रतिवादी का नाम एवम पता (Name & Address of the Appellant/Respondent)

**M/s Shri Ghantakarna Enterprises**
**M/s Ashokbhai Trivedi**

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील या पुनरीक्षण आवेदन प्रस्तुत कर सकता है |

Any person an aggrieved by this Order-in-Appeal may file an appeal or revision application, as the one may be against such order, to the appropriate authority in the following way:

**भारत सरकार का पुनरीक्षण आवेदन :**
**Revision application to Government of India:**

(1) (क) (i) केंद्रीय उत्पाद शुल्क अधिनियम 1994 की धरा अतत नीचे बताए गए मामलों के बारे में पूवोक्त धारा को उप-धारा के प्रथम परंतुक के अंतर्गत पुनरीक्षण आवेदन अधीन सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली-110001 को की जानी चाहिए |

A revision application lies to the Under Secretary, to the Government of India, Revision Application Unit, Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi-110001, under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid:

(ii) यदि माल की हानि के मामले में जब हानि कारखाने से किसी भंडारगार या अन्य कारखाने में या किसी भंडारगार से दूसरे भंडारगार में माल ले जाते हुए मार्ग में, या किसी भंडारगार या भंडार में चाहे वह किसी कारखाने में या किसी भंडारगार में हो माल की प्रकिया के दौरान हुई हो |

In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse

(ख) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामले में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है |

Cont...2

(b) In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.

(ग) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल है ।

(c) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

(घ) अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो इयूटी क्रेडीट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (न.2) 1998 धारा 109 द्वारा नियुक्त किए गए हो ।

(d) Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec. 109 of the Finance (No.2) Act, 1998.

(१) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए । उसके साथ खाता इ. के मुख्यशीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए ।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

(२) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रूपये या उससे कम हो तो रूपये 200/- फ़ीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख रूपये से ज्यादा हो तो रूपये 1000/- फ़ीस भुगतान की जाए ।

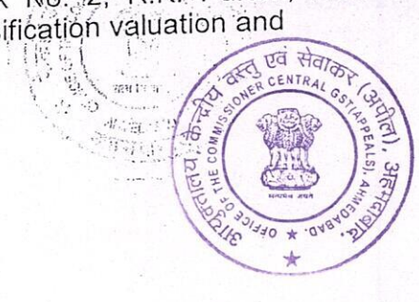
The revision application shall be accompanied by a fee of Rs. 200/- where the amount involved in Rupees One Lac or less and Rs. 1000/- where the amount involved is more than Rupees One Lac.

सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील :-
Appeal to Customs, Excise & Service Tax Appellate Tribunal:-

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35-बी/35-इ के अंतर्गत:-
Under Section 35B/35E of CEA, 1944 an appeal lies to:-

(क) वर्गीकरण मूल्यांकन से सम्बन्धित सभी मामले सीमा शुल्क, केंद्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण की विशेष पीठिका वेस्ट ब्लॉक न. 3. आर. के. पुरम, नई दिल्ली को एवं

The special bench of Customs, Excise & Service Tax Appellate Tribunal of West Block No. 2, R.K. Puram, New Delhi in all matters relating to classification valuation and



(ख) उक्तिलखित परिच्छेद 2(1) क में बताए अनुसार के अलावा की अपील, अपीलों के मामले में सीमा शुल्क, केंद्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में ओ-20, न्यू मेन्टल होस्पिटल कम्पाउंड, मेघाणी नगर, अहमदाबाद-380016.

(b) To the West regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at O-20, New Mental Hospital Compound, Meghani Nagar, Ahmedabad: 380016, in case of appeals other than as mentioned in para-2(1) above.

(2) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 की धारा 6 के अंतर्गत प्रपत्र इ.ए.-3 में निर्धारित किए अनुसार अपीलीय न्यधिकरण की गई अपील के विरूद्ध अपील किए गए आदेश की चार प्रतियाँ सहित जहाँ उत्पाद शुल्क की माँग, ब्याज की माँग और लगाया गया जुर्माना रुपए 5 लाख या उससे कम है वहाँ रुपए 1000/- फ़ीस भेजनी होगी । जहां उत्पाद शुल्क की माँग और लगाया गया जुर्माना रुपए 5 लाख या ५० लाख तक हो तो रुपए ५०००/ फीस भेजनी होगी । जहां उत्पाद शुल्क की माँग और लगाया गया जुर्माना रुपए ५० लाख या उससे ज्यादा हो तो रुपए १००००/ फीस भेजनी होगी । फीस सहायक रजिस्टार के नाम से रेखांकित बैंक ड्राफ्ट के रूप ,में संबंध में की जाए । यह ड्राफ्ट उस स्थान के किसी नामित सार्वजिनक क्षेत्र के बैंक की शाखा का हो जहाँ उक्त न्यायाधिकरण की पीठ स्थित है । स्टे के लिए आवेदन-पत्र रुपए ५००/- फीस भेजनी होगी ।

The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of Central Excise (Appeal) Rules, 2001 and shall be accompanied against (one which at least should be accompanied by a fee of Rs. 1,000/- Rs.5000/-, Rs.10,000/- where amount of duty/penalty/demand/refund is upto 5 Lac. 5 Lac to 50 Lac and above 50 Lac respectively in the form crossed bank draft in favour of Asst. Registrar of branch of any nominate public sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated. Application made for grant of stay shall be accompanied by a fee of Rs. 500/-

(3) यदि इस आदेश में कई मूल आदेशो का समावेश होता है तो प्रत्येक मूंल आदेश के लिय फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिये इस तथ्य के होते हुए भी की लिखा पढ़ी कार्य से बचने के लिए यथास्थिति अपीलीय नयाधिकरण को एक अपील या केंद्रीय सरकार को एक आवेदन किया जाता है ।

In case of the order covers a number of order- in Original, fee for each O.I.O. should be paid in the aforesaid manner not withstanding the fact that the one appeal to the Appellant Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs. 100/- for each.

(4) न्यायालय शुल्क अधिनियम १९७० यथा संशोधित की अनुसूची-१ के अंतर्गत निर्धारित किये अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रुपए ६.५० पैसे का न्यायलय शुल्क टिकट लगा होना चाहिय ।

One copy of application or O.I.O. as the case may be, and the order of the adjournment authority shall beer a court fee stamp of Rs. 6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

(5) इन ओर सम्बंधित मामलो को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केंद्रीय उत्पादन शुल्क एंव सेवाकर अपीलीय न्याधिकरण (कार्यावधि) नियम, १९८२ में निहित है ।

(6) Attention in invited to the rules covering these and other related matter contended in Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

# ORDER IN APPEAL

Two appeals have been filed, the details of which are as follows:

| Sr. No. | Name of the appellant | Impugned OIO no. & date | Impugned OIO passed by | Appeal No. |
|---|---|---|---|---|
| 1 | M/s. Shri Ghantakarna Enterprises, Plot No. 12 and 13, Sanand Land Development Estate, Ularia, Sanand, Ahmedabad. | 15/AC/D/NKS/18-19 dated 7.1.2019 | Assistant Commissioner, Division III, Ahmedabad North Commissionerate. | V2(39)232/North/Appeals /2018-19 |
| 2 | Shri Ashokbhai Trivedi, Chief Finance Manager, M/s. Shri Ghantakarna Enterprises, Plot No. 12 and 13, Sanand Land Development Estate, Ularia, Sanand, Ahmedabad. | | | V2(39)233/North/Appeals /2018-19 |

Both the above appeals are being disposed of vide this common OIA.

2. Briefly, the facts of the case are that the appellant at Sr. No. 1, engaged in the manufacture of printed jute bags and printed non woven PP bags, was clearing the goods, under exemption notification No. 30/2004-CE, as amended vide notification No. 12/2011-CE and notification No. 30/2011-CE. During the course of investigation, consequent to a preventive raid, it was observed that the appellant was not eligible for the said exemption nor was he eligible for value based exemption vide notification No. 8/2003-CE. After the completion of investigation, a show cause notice was issued to the appellant *inter alia,* alleging that they were liable to pay central excise duty of Rs. 40,08,722/- for the years 2011-12 and 2012-13. This notice, was adjudicated vide OIO No. 4/AC/D/BJM/2017 dated 11.8.2017, wherein the adjudicating authority confirmed the demand along with interest and further imposed penalty on the appellant under section 11AC(1)(c) of Central Excise Act, 1944. Personal penalty of Rs. 6.00 lacs was imposed on the appellant mentioned at Sr. No. 2. Feeling aggrieved, the appellants, filed an appeal before the Commissioner(Appeals) which was decided by me vide by OIA No. AHM-EXCUS-002-APP-329-17-18 dated 26.2.2018, wherein I had held that:

> [a]benefit granted in terms of paragraph 4(e) of notification No. 8/2003-CE is not deniable to the appellant; that the denial of exemption provided in notification No. 8/2003-CE on the grounds that goods were sold under brand name is not justified;
>
> [b] that the legal position as far as notification No. 30/2004-CE is concerned is that exemption is not available to branded goods during the period; the defence that the branded goods not being traded in open market and sold to the persons whose brand names are used, shows that the condition of the notification No. 30/2004-CE would not apply; that since no such differentiation has been carved out or no explanation has been inserted to exclude the branded goods of particular nature, such a thing cannot be read in between the lines; that an ineligible exemption has been availed by the appellant;
>
> [c] the ground that there was no manufacture, was not discussed by the adjudicating authority;
>
> [d] the OIO dated 11.8.2017, except to the extent of personal penalty imposed under Rule 26 of CER '02, is set aside; that the matter is remanded back to the adjudicating authority with a direction to decide the matter afresh.

2.1. Consequently, in terms of denovo adjudication, the adjudicating authority vide his OIO No. 15/AC/D/NKS/18-19 dated 7.1.2019, confirmed the central excise duty of Rs.

40,08,722/- along with interest and further imposed penalty on both the appellant's mentioned at Sr. No. 1 and 2 of the table, supra.

3. Feeling aggrieved, the appellant has filed this appeal, raising the following averments:

- that the impugned OIO suffers from legal infirmity;
- that the goods manufactured by them were not branded goods and were manufactured for institutions like Food Corporation of India and other companies and contained details of food grain that was required to be sold by such customers and such bags could not be considered as branded bags;
- that the case of Hooghly Infrastructure P Ltd [2015(329) ELT 142] relied upon is set aside by the Hon'ble Supreme Court of India [2018(359)ELT 433(SC)];
- that the adjudicating authority has failed to follow CBEC Circular no. 1053/2/2017-Cx dated 10.3.2017;
- that they are clearing the bags to various grain millers who pack the grain such as wheat, rice, dal, etc.; that they print the details of the supplier and the grain products that are sold by the dealers; that they supply the bags containing details of various types of goods grains sold by the grain traders and such details are provided by the suppliers for printing; that they were required to print on jute bags sold by the grain traders so that buyers can identify their products and the year when food grains or other material is packed;
- that by no stretch of imagination it can be considered that they had sold their branded goods/bags/sacks to various parties as the said brand is not of the appellant but of the grain company;
- CBEC vide circular no. 947/8/2011-Cx dated 21.6.2011 had clarified that uniforms or made up articles bearing name or logo of school, security agency, comp[any, hotel, etc., would not merit treatment as branded products merely because the name of the school, institution is either printed embroidered or etched on to them;
- that since the demand is no longer sustainable the confirmation of interest on the confirmed demand and imposition of penalty needs to be set aside.

4. Personal hearing in respect of both the appeals was held on 22.5.2019 wherein Shri Anil Gidwani, Tax Consultant and Practitioner, appeared on behalf of the appellants and reiterated the grounds of appeal. He also submitted copy of the judgement in the case of RDB Textiles Ltd [2018(339) ELT 433(SC)] further stating that the issue is already settled.

5. I have gone through the facts of the case, the impugned OIO, the grounds of appeal and the oral averments made during the course of personal hearing. The issue to be decided is whether central excise duty is leviable on the jute bags and non woven PP bags, printed with buyers brand name and the applicability of notification No. 30/2004-CE, as amended.

6. The adjudicating authority in his impugned OIO dated 7.1.2019, has held

- that on going through the exemption notification No. 30/2004-CE, as amended, the goods under chapter 63 bearing brand name or sold under a brand name has been kept out of the purview of the exemption notification;
- that the invoices and purchase orders withdrawn from the factory premises of the appellant shows that they were involved in the manufacturing of packaging materials; that the goods manufactured by the appellant bear the brand name and hence are not eligible for the exemption under the notification, *ibid*;
- that the case law of Hooghly Infrastructure P Ltd [2015(329) ELT 142 (Tri-Kol] is applicable to the present case;
- that in the statements recorded it was clearly recorded that for manufacturing jute bags their major raw materials was jute fabrics which was purchased from Kolkatta; that they printed the brand names after stitching the bags; that the contention before the Commissioner(Appeals) that they purchased bags from open market and only printed on the same, is not correct;
- that the case law of M/s. Fitrite Packers [2015(324) ELT 625SC] is applicable to the present dispute;
- that though the appellant had cleared excisable goods but the same was not furnished in the ER-3 returns and therefore there was willful misstatement and suppression of facts and the appellant intentionally evaded the duty;

- that the appellant mentioned at Sr. No. 2 was looking after the day to day work of manufacturing accounting, selling and purchasing of excisable goods ; that it is difficult to believe that the contraventions happened without the knowledge of the said appellant and therefore he is liable for penalty.

7. My findings/decision with respect to

[a]availability of benefit of exemption notification No. 8/2003-CE;
[b] availability of benefit of exemption notification No. 30/2004-CE, as amended; and
[c]imposition of penalty under Rule 26 of the CER '02, on the appellant mentioned at Sr. No. 2, are

recorded in my earlier OIA No. 329/2017-18 dated 26.2.2018. The adjudicating authority, was specifically asked to record his findings, in respect of the plea taken by the appellant that there was no manufacture since they had only printed on the bags purchased from the open market.

7.1 The adjudicating authority, in paras 14, 14.1, 14.2, has elaborately given his findings in this regard. However, the appellant in the grounds of appeal in para E, page 10, states that the adjudicating authority is silent on this direction of the OIA. The claim of the appellant is not correct. I concur with the findings of the adjudicating authority in this regard and reject the claim of the appellant that there was no manufacture.

7.2 As far as rest of the points raised in the grounds are concerned, I have already given my findings in this regard, leaving me with very little to add. However, the appellant interestingly has relied upon the case of RDB Textiles Ltd [2018(359) ELT 433 SC]. This judgement of the Hon'ble Supreme Court, was delivered after my OIA was issued. The appellant's contention is that the reliance of the adjudicating authority on the judgement in the case of Hooghly Infrastructure P Ltd [2015(329) ELT 142], for holding that the appellant was not eligible for the benefit of the exemption notification No. 30/2004-CE, was not correct since the Hon'ble Supreme Court had set aside the judgement of M/s. Hooghly, vide its judgement in the case of RDB Textiles Ltd, ibid. I would like to address this contention.

7.3 The Hon'ble Supreme Court in the case of RDB Textiles Ltd [2018(359) ELT 433 SC], held as follows: [relevant extracts]

> ***6.*** *Before dealing with the facts of these cases in some detail, it is important to first set out the exemption provided under Notification No. 30/2004, dated 9-7-2004. This notification, issued under Section 5A of the Central Excise Act, exempts excisable goods mentioned thereunder in public interest. Item 16 of the aforesaid notification exempts all goods falling within Central Excise Tariff Entry 63, except goods falling within 6307.10. The Central Excise Tariff, with which we are concerned, is 6305, and in particular, 6305 10 30 and 6305 10 40, where the rate of duty is 10%. Thus, upto 1-3-2011, it is clear that all the goods mentioned in Central Excise Tariff Entry 63 were exempt from payment of excise duty. However, by Notification No. 12/2011, dated 1-3-2011, Item 16 was substituted, in which what was exempted was "all goods, other than those bearing a brand name or sold under a brand name".*
>
> ***7.*** *Brand name, for the purpose of Chapter 63, is defined as follows :*
>
> > *"(iv) In relation to products of this Chapter, "brand name" means a brand name, whether registered or not, that is to say, a name or a mark, such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to a product, for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and some person using such name or mark with or without any indication of the identity of that person."*
>
> ***12.*** *A reading of the aforesaid letter and circular would show that merely because the name of an institution is printed or embroidered on articles would not mean that they would become branded products. A brand name, in addition to the name or logo, would have to be given in order to attract Excise duty. Also, mere affixing of the name of a manufacturer would not constitute a brand name. Given the aforesaid two documents, the Superintendent (Central Excise) did not go ahead with the notice dated 7-3-2011.*

*18. It is obvious that, on the facts of these cases, what is in fact affixed to the jute bags is the name of the procurer agency in question such as the FCI, the State Government of Punjab and so on, the crop year, the name of the jute mill concerned, its BIS certification number and the statement that the food grains are manufactured in India. It is clear that all the aforesaid markings have, on the pain of penalty, to be done by the manufacturers of the jute bags, given the Jute Control Order and the requisition orders made there under. Obviously, such markings are made by compulsion of law, which are meant for identification, monitoring and control by Governmental agencies involved in the PDS. Neither do such markings enhance the value of the jute bags in any manner nor is it the intention of the appellants to so enhance the value of jute bags, which is necessary if Excise duty is to be imposed. This flows from the expression "...for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and some person using such name or mark...". In the present case, the markings on the jute bags are not for the purpose of indicating a connection in the course of trade between the jute bag and some person using such name or mark. The markings are by compulsion of law only in order that Governmental Authorities involved in the PDS may identify and segregate the aforesaid jute bags. This being the case, it is obvious that there is no "brand name" involved in the facts of the present cases.*

*19. Equally, it is clear that circulars that are issued by the Ministry of Finance are binding on the Department of Central Excise, there being no judgment by this Court laying down the law contrary to such circulars. This is a wellsettled proposition as laid down in Paragraph 30 of CIT v. Trans Asian Shipping Services (P) Ltd., (2016) 8 SCC 604 at 621.*

*20. However, since heavy reliance was placed on the judgment of this Court in Kohinoor Elastics (supra) by the CESTAT, it has become necessary for us to deal with the aforesaid judgment. The exemption notification, which was involved on the facts of that case, was a notification dated 28-2-1993. The relevant portion of the notification, with which the Court was concerned, is set out in Paragraph 4 as follows :*

> *"The exemption contained in this notification shall not apply to the specified goods, bearing a brand name or trade name (registered or not) of another person:*
>
> *Provided that nothing contained in this paragraph shall be applicable to the specified goods which are component parts of any machinery or equipment or appliances and cleared from a factory for use as original equipment in the manufacture of the said machinery or equipment or appliances and the procedure set out in Chapter X of the said Rules is followed:*
>
> *Explanation IX. - 'Brand name or trade name' shall mean a brand name or trade name, whether registered or not, that is to say a name or a mark [Code number, design number, drawing number, symbol, monogram, label], signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person."*
>
> *(at page 530)*

*21. The judgment of this Court turned on the fact that the exemption contained in the notification shall not apply to specific goods which bear a brand name of another person. It may first be noticed that there was no argument that the particular brand name concerned, on the facts of that case, could not be said to be a "brand name" at all, which is what has been argued before us. Further, it was held, on the facts of that case, that :*

> *"It is an admitted position that the appellants are affixing the brand/ trade name of their customers on the elastics. They are being so affixed because the appellants and/or the customer wants to indicate that the "goods (elastic)" have a connection with that customer. This is clear from the fact that the elastics on which brand/trade name of 'A' is affixed will not and cannot be used by any person other than the person using that brand/trade name. As set out hereinabove once a brand/trade name is used in the course of trade of the manufacturer, who is indicating a connection between the "goods" manufactured by him and the person using the brand/trade name, the exemption is lost. In any case it cannot be forgotten that the customer wants his brand/trade name affixed on the product not for his own knowledge or interest. The elastic supplied by the appellants is becoming part and parcel of the undergarment. The customer is getting the brand/trade name affixed because he wants the ultimate customer to know that there is a connection between the product and him.*
>
> *(at page 532-533)*

*22. The facts of these cases are far from the facts in Kohinoor Elastics (supra). In Kohinoor Elastics (supra), it was found that, as a matter of fact, the customer wanted the brand name affixed on the product because he wanted the consumer to know that there is a connection between the product and him. This is very far from the facts of the present case, in that, as has been held by us above, it is clear that the markings required on the jute bags are compulsory, being required by the Jute Commissioner, and are not for the purpose of enhancing the value of the jute bags by indicating a connection in the course of trade between the aforesaid products and the manufacturer of those products.*

7.4 The facts of the case mentioned in RDB Textiles Ltd are not similar to the present dispute, because nowhere has the appellant claimed nor substantiated that the marking required on the jute bags were **compulsory**.

8. In view of the foregoing, the impugned impugned OIO is upheld and both the appeals are rejected.

9. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

9. The appeal filed by the appellant stands disposed of in above terms.

(उमा शंकर)
प्रधान आयुक्त (अपील्स)

Date : 24.5.2019

Attested

(Vinod Lukose)
Superintendent (Appeal),
Central Tax,
Ahmedabad.

By RPAD.

To,

| | |
|---|---|
| 1 | M/s. Shri Ghantakarna Enterprises,<br>Plot No. 12 and 13,<br>Sanand Land Development Estate,<br>Ularia, Sanand,<br>Ahmedabad. |
| 2 | Shri Ashokbhai Trivedi,<br>Chief Finance Manager,<br>M/s. Shri Ghantakarna Enterprises,<br>Plot No. 12 and 13,<br>Sanand Land Development Estate,<br>Ularia, Sanand,<br>Ahmedabad. |

Copy to:-

1. The Chief Commissioner, Central Tax, Ahmedabad Zone .
2. The Principal Commissioner, Central Tax, Ahmedabad North Commissionerate.
3. The Assistant Commissioner, Central Tax Division- III, Ahmedabad North Commissionerate.
4. The Assistant Commissioner, System, Central Tax, Ahmedabad North Commissionerate.
5. Guard File.
6. P.A.