


DIN-20200704WTO0002V7251

<p>आयुक्त का कार्यालय केंद्रीय वस्तु एवं सेवा कर एवं उत्पाद शुल्क ,अहमदाबाद उत्तर, कस्टम हाँउस(तल प्रथम) नवरंगपुरा- अहमदाबाद ,380009</p>		<p>Office of the Commissioner of Central Goods &amp; Services Tax &amp; Central Excise, Ahmedabad North, Custom House(1<sup>st</sup> Floor) Navrangpura, Ahmedabad-380009</p>
<p>फ़ोन नंबर./ PHONE No.: 079-2754 4599 फ़ैक्स/ FAX : 079-2754 4463 E-mail:- <a href="mailto:oaahmedabad2@gmail.com">oaahmedabad2@gmail.com</a></p>		

**निबन्धित पावती डाक द्वारा / By REGISTERED POST AD**

फा .सं/. V.48/15-14/OA/2017

आदेश की तारीख / Date of Order : 21.07.2020

जारी करने की तारीख / Date of Issue : 21.07.2020

द्वारा पारित/Passed by -

डॉ. बलबीर सिंह / Dr. BALBIR SINGH

आयुक्त / COMMISSIONER

मूल आदेश संख्या /

**ORDER-IN-ORIGINAL No. AHM-EXCUS-002-COMMR-13/2020-21**

जिस व्यक्ति(यों) को यह प्रति भेजी जाती है, उसे व्यक्तिगत प्रयोग के लिए निःशुल्क प्रदान की जाती है।

This copy is granted free of charge for private use of the person(s) to whom it is sent.

2. इस आदेश से असंतुष्ट कोई भी व्यक्ति -इस आदेश की प्राप्ति से तीन माह के भीतर सीमा शुल्क ,उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण ,अहमदाबाद पीठ को इस आदेश के विरुद्ध अपील कर सकता है। अपील सहायक रजिस्ट्रार ,सीमा शुल्क ,उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण , द्वितीय तल, बाहुमली भवन असरवा, गिरधर नगर पुल के पास, गिरधर नगर, अहमदाबाद, गुजरात 380004 को संबोधित होनी चाहिए।

Any person deeming himself aggrieved by this Order may appeal against this Order to the Customs, Excise and Service Tax Appellate Tribunal, Ahmedabad Bench within three months from the date of its communication. The appeal must be addressed to the Assistant Registrar, Customs, Excise and Service Tax Appellate Tribunal, 2nd Floor, Bahumali Bhavan Asarwa, Near Girdhar Nagar Bridge, Girdhar Nagar, Ahmedabad, Gujarat 380004.

इस आदेश के विरुद्ध अपील न्यायाधिकरण में अपील करने से पहले मांगे गये शुल्क के का भुगतान करना होगा, जहाँ शुल्क यानि की विवादग्रस्त शुल्क या विवादग्रस्त शुल्क एवं दंड यानि विवादग्रस्त दंड शामिल है ।

An appeal against this order shall lie before the Tribunal on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

(as per amendment in Section 35F of Central Excise Act,1944 dated 06.08.2014)

3. उक्त अपील प्रारूप सं .इ.ए 3.में दाखिल की जानी चाहिए। उसपर केन्द्रीय उत्पाद शुल्क (अपील) नियमावली 2001 ,के नियम 3 के उप नियम (2)में विनिर्दिष्ट व्यक्तियों द्वारा



हस्ताक्षर किए जाएंगे। उक्त अपील को चार प्रतियाँ में दाखिल किया जाए तथा जिस आदेश के विरुद्ध अपील की गई हो, उसकी भी उतनी ही प्रतियाँ संलग्न की जाएँ (उनमें से कम से कम एक प्रति प्रमाणित होनी चाहिए। अपील से संबन्धित सभी दस्तावेज भी चार प्रतियाँ में अग्रेषित किए जाने चाहिए।

The Appeal should be filed in Form No. E.A.3. It shall be signed by the persons specified in sub-rule (2) of Rule 3 of the Central Excise (Appeals) Rules, 2001. It shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be certified copy). All supporting documents of the appeal should be forwarded in quadruplicate.

4. अपील जिसमें तथ्यों का विवरण एवं अपील के आधार शामिल हैं चार प्रतियों में दाखिल, उसकी भी उतनी ही, की जाएगी तथा उसके साथ जिस आदेश के विरुद्ध अपील की गई हो उनमें से कम से कम प्रतियाँ संलग्न की जाएंगी एक प्रमाणित प्रति होगी।

(The Appeal including the statement of facts and the grounds of appeal shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy.)

5. अपील का प्रपत्र अंग्रेजी अथवा हिन्दी में होगा एवं इसे संक्षिप्त एवं किसी तर्क अथवा विवरण के बिना अपील के कारणों के स्पष्ट शीर्षों के अंतर्गत तैयार करना चाहिए एवं ऐसे कारणों को क्रमानुसार क्रमांकित करना चाहिए।

The form of appeal shall be in English or Hindi and should be set forth concisely and under distinct heads of the grounds of appeals without any argument or narrative and such grounds should be numbered consecutively.

6. अधिनियम की धारा 35बी के उपबन्धों के अंतर्गत निर्धारित फीस जिस स्थान पर पीठ स्थित है, वहां के किसी भी राष्ट्रीयकृत बैंक की शाखा से न्यायाधिकरण की पीठ के सहायक रजिस्ट्रार के नाम पर रेखांकित माँग ड्राफ्ट के जरिए अदा की जाएगी तथा यह माँग ड्राफ्ट अपील के प्रपत्र के साथ संलग्न किया जाएगा।

The prescribed fee under the provisions of Section 35 B of the Act shall be paid through a crossed demand draft, in favour of the Assistant Registrar of the Bench of the Tribunal, of a branch of any Nationalized Bank located at the place where the Bench is situated and the demand draft shall be attached to the form of appeal.

7. न्यायालय शुल्क अधिनियम 1970, की अनुसूची 1-मद 6 के अंतर्गत निर्धारित किए अनुसार संलग्न किए गए आदेश की प्रति पर 1.00रूपया का न्यायालय शुल्क टिकट लगा होना चाहिए।

The copy of this order attached therein should bear a court fee stamp of Re. 1.00 as prescribed under Schedule 1, Item 6 of the Court Fees Act, 1970.

8. अपील पर भी रु 4.00 का न्यायालय शुल्क टिकट लगा होना चाहिए।

Appeal should also bear a court fee stamp of Rs. 4.00.

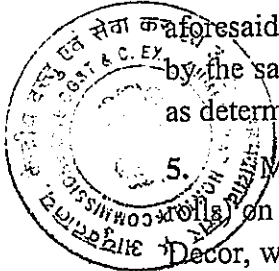
विषय: -कारण बताओ सूचना:

Subject- Proceedings initiated vide Show-Cause-Notice SCN No. DGCEI/AZU/36-34/2017-18 dated 28.04.2017 issued to M/s. Match Graphics Pvt. Ltd, 497A, 419A,498A, Radhe Industrial Estate, Tajpur Road, Changodar, Ahmedabad



**BRIEF FACTS OF THE CASE:**

1. M/s Match Graphics Pvt. Ltd, 497A, 419A, 498A, Radhe Industrial Estate, Tejpur Road, Changodar, Ahmedabad (hereinafter referred to as "M/s MGPL" engaged in manufacture of Printed Decorative Paper in rolls falling Central Excise Tariff Sub Heading No.48119099 of the schedule to the Central Excise Tariff Act, 1985 for which they have obtained Central Excise Registration No.AAECM6888PEM001.
2. Intelligence gathered by officers of the DGCEI, (now DGGSTI) Zonal Unit, Ahmedabad (herein after referred to as "DGCEI") indicated that M/s MGPL engaged in manufacturing of Printed Decorative Paper classifiable under CETSH No. 48119099 of the CETA, 1985 attracting Central Excise Duty at tariff rate. They were manufacturing aforesaid product on job work basis for various manufacturers availing benefit of Exemption of Job-work Notification no.214/86-C.E. dated 25-03-1986, as amended. They were also doing job work for the manufactures/traders, which were not using the goods manufactured on job work basis, for manufacturing of the excisable final product, in such cases M/s MGPL was not entitled for exemption under aforesaid notification and liable to pay Central Excise duty as determined under the provision of Rule 8 or 9 of the Central Excise (Valuation) Rules, 2000. They had neither taken Central Excise Registration nor paid any amount of Central Excise duty payable on their manufactured product. They have claimed that the said product was a product of printing industry and falls under CETSH No.49119990 of the Schedule to the CETA, 1985 attracting Nil rate of Central Excise duty. According to the characteristics and the users like product i.e. Printed Decorative Papers in rolls manufactured by M/s MGPL is rightly classifiable under CETSH No.48119099 of the Schedule to the CETA, 1985, attracting Central Excise duty @ 12.5% Adv.
3. M/s MGPL was manufacturing aforesaid product (Printed Decorative Papers in rolls) on job work basis for the manufacturers registered with Central Excise Department. They are sending raw materials i.e. Base Paper in Rolls for manufacturing of the excisable goods i.e. Printed Decorative Papers in rolls on job work basis under job work challans to M/s MGPL, who after manufacturing said goods cleared without payment of Central Excise duty leviable thereon, availing the benefit of job-work Exemption Notification No. 214/86-C.E. dated 25-03-1986, as amended. Said manufacturers had used said goods in the manufacture of the dutiable finished excisable goods as such.
4. M/s MGPL was also manufacturing said excisable goods (Printed Decorative Papers in rolls) on job work basis for other manufacturers. They are sending raw materials i.e. Base Paper in Rolls for manufacturing of the excisable goods i.e. Printed Decorative Papers in rolls on job work basis to M/s MGPL, who after manufacturing cleared the same without payment of Central Excise duty leviable thereon. Said manufacturers were engaged in the manufacture of exempted finished goods and using the said Printed Decorative Papers in Rolls, received from M/s MGPL in the manufacture of their exempted goods. Said manufactures had neither given undertaking to the Assistant/Deputy Commissioner of Central Excise having jurisdiction of M/s MGPL nor fulfill the conditions of the said exemption notification. It appeared that M/s MGPL is, therefore, not entitled for the benefit of said exemption notification and liable to pay Central Excise duty on the excisable goods, viz. Printed Decorative Papers in Rolls, cleared to said manufacturers. The aforesaid manufactured goods viz. Printed Decorative Papers in Rolls were captively consumed by the said manufacturers, accordingly, M/s MGPL is liable to duty on said goods on the value as determined as per the provision of Rule 8 of the Central Excise (Valuation) Rules, 2000.
5. M/s MGPL had also manufactured said excisable goods (Printed Decorative Papers in rolls) on job work basis for two trading firms viz. M/s Aman Fashion Pvt. Ltd. and Mis Natural Decor, which were run by family members of the directors of M/s MGPL. They are sending raw materials i.e. Base Paper in Rolls for manufacturing of the said goods on job work basis to M/s MGPL, who after manufacturing cleared the same without payment of Central Excise duty leviable thereon. Said firms had sold the printed Decorative Paper in rolls to different buyers. In such cases also, M/s MGPL is not entitled for aforesaid job-work Exemption Notification and liable to pay Central Excise duty on said goods on the value as determined under the provision of

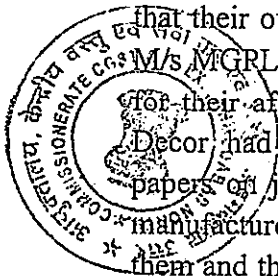


Rule 9 of the Central Excise (Valuation) Rules, 2000.

Adopting above modus operandi, M/s MGPL has evaded Central Excise Duty amounting to Rs.8,55,81,217/- for the financial year 2012-13 to 2016-17 (up to 09.09.2016) as detailed in Annexure C to the show cause notice.

6. Acting on the above intelligence, the Officers of DGCEI has simultaneously conducted searches on 09-09-2016 at factory premises of (i) M/s MGPL, at 497 A, 419A,498A, Radhe Industrial Estate, Tajpur Road, Changodar, Ahmedabad and (ii) office at 11,1<sup>st</sup> & 2<sup>nd</sup> Floor New Cloth Market, Outside Raipur Gate, Sarangpur, Ahmedabad. During the course of the searches, it appeared that they were engaged in manufacture of Printed Decorative Paper in rolls classifiable under CETSH No. 48119099 of the CETA, 1985. They were also manufacturing aforesaid Printed Decorative Paper in rolls on job work basis for various manufacturers/ traders. They had neither obtained Central Excise Registration nor paid Central Excise duty on the aforesaid product manufactured. During the searches various documents viz. purchase invoices, job-work Challans, sales invoices, ledger accounts etc. were resumed.

7. A statement of Shri Anandkumar Agarwal Director of M/s MGPL and M/s Aman Fashion Pvt. Ltd and partner of M/s Natural Decor was recorded under Section 14 of the Central Excise Act, 1944 on 09-09-2016, wherein he, *inter alia*, stated that their company M/s MGPL was engaged in manufacturing of the excisable goods, i.e. printed decorative paper falling under CETSH No. 48119099 on job work basis for various manufacturers/traders, which was to be used in manufacturing of laminate sheets by them; that they had not taken Central Excise Registration of the said manufacturing unit; that except above M/s MGPL were also running three trading companies/firms viz-(i) M/s Aman Fashion Pvt. Ltd., Ahmedabad (A private limited company with directors, Shri Shyamsundar Ramprasad Agarwal, Shri Dineshkumar Shankarlal Agarwal, Shri Shreenarayan Shreekishan Agarwal and himself), (ii) M/s Natural Decor, Ahmedabad (A partnership firm with partners, Shri Aman Dineshkumar Agarwal, Nikhil Dineshkumar Agarwal, Nikunj Manojkumar Agarwal and himself) and (iii) M/s Keval Corporation, Ahmedabad (A proprietorship firm with proprietor, Shreekishan Agarwal, HUF), which were owned by his family members, engaged in trading of printed decorative paper; that M/s MGPL had received plain base papers from the parties, printed the desired colour/design on the same on job work basis and returned the same to the client on payment of mutually agreed amount; that major parties, to whom they dealt were M/s Natural Decor and M/s Aman Fashion Pvt. Ltd. along with other firm/companies; that M/s Natural Decor and M/s Aman Fashion Pvt. Ltd. were neither engaged in any kind of manufacturing activities, nor have any manufacturing facilities; that they were basically traders of decor papers; that they purchased the plain base papers and after got it decorative printed from M/s MGPL on job work basis, sold the same to different manufactures; that M/s Natural Decor and M/s Aman Fashion Pvt. Ltd. were purely engaged in trading activities and no manufacturing activities had been carried out by them and, hence, they were not liable to pay Central Excise Duty; that M/s MGPL was neither registered with Central Excise Department nor paid any Central Excise duty, as M/s MGPL did only job work and did not carry out any manufacturing activities other than that; that the manufacturing of printed decorative papers on job work basis was exempted from Central Excise Duty and, hence, they were not paying Central Excise Duty; that M/s Natural Décor and M/s Aman Fashion Pvt. Ltd. were engaged in purely trading activities; that as such they had not fulfilled the conditions of job-work exemption Notification no. 214/86-C.E. dated 25-03-1986 and, therefore, they were not entitled for any exemption for job work done for their above two trading firms; that their other clients were complying with the conditions of said notifications, he agreed that M/s MGPL was liable to pay Central Excise Duty on the goods manufactured on job work basis for their aforesaid two trading firms, which were also their related parties; that M/s Natural Decor had started business in the year 2015-16 and they got manufactured decorative printed papers on job work basis only from M/s MGPL; that consignment wise details of goods got manufactured on job work basis by their said 2 trading firms were not readily available with them and they would work out the same and submit within 4-5 days along with assessable value thereof and Central Excise Duty payable thereof.



8. Further statement of Shri Anandkumar Agarwal Director of M/s MGPL, was recorded on 08-12-2016, wherein he, *inter alia*, stated that M/s MGPL was engaged in printing of Decorative Paper in Rolls form on job work basis for various manufacturers/traders; that for printing of the Decorative Paper, they received 'Uncoated Printing Paper' i.e. 'Base Paper in Rolls' from their various clients and as per requirement of the clients, they manufactured "Printed Decorative Paper in Rolls Form" of various types of designs and colour combination as per order of the clients and send back the excisable goods i.e. "Printed Decorative Paper in Rolls" to the respective clients; they charged job charges from said principal manufacturers ranging Rs.1 /-per meter to 6/- per meter or Rs.22/- per kg to Rs. 70/- per kg; that "Printed Decorative Paper" was used in manufacturing of High pressure Laminated Sheets, Particle Boards, MDF Boards as decorative surface of the product; that decorative printing carried out by their unit M/s MGPL, was a particular form of rotogravure printing; that Rotogravure printing was a continuous printing process, in which base paper in roll form was used and after printing finished goods decorative printed paper was also remains in roll form; that M/s MGPL engaged in manufacturing of decorative printing on base paper on job-work basis, which was essential to further use the product i.e. printed decorative paper in manufacturing of Decorative Laminate Sheets/ Particle Boards/ MDF Board and without printing base paper could not be used; that they were of the opinion that the product manufactured by their unit M/s MGPL, was a product of printing industry and falls under CETSH No. 49119990 attracting NIL rate of Central Excise Duty, therefore they had neither obtained any Central Excise Registration nor paid any Central Excise Duty on the same before initiation of the present enquiry by DGCEI (i.e. 09-09-2016); that he has gone through the Chapter Heading 4811 of the Central Excise Tariff, Act 1985, which was as under-

Tariff	Item Description of goods	Unit	Rate of duty
4811	- PAPER, PAPERBOARD, CELLULOSE WADDING AND WEBS OF CELLULOSE FIBRES, COATED, IMPREGNATED, COVERED, SURFACE-COLOURED, SURFACE DECORATED OR PRINTED, IN ROLLS OR RECTANGULAR (INCLUDING SQUARE) SHEETS, OF ANY SIZE, OTHER THAN GOODS OF THE KIND DESCRIBED IN HEADING 4803, 4809 OR 4810		
481190	--- Other paper, paperboard, cellulose wadding and webs of cellulose fibres : --- Handmade paper and paperboard, rules, lined or squared but not otherwise printed; chromo and art paper; coated, building board of paper or pulp, impregnated; chromo board; raw base paper for sensitising, coated; surface marbled; leather board and imitation leather board; and matrix board:		
481190 99	---- Other	Kg.	12.5%

And he agreed that the printed Decorative Paper manufactured by their Unit was Surface-Coloured, Surface Decorated or Printed in rolls and correctly classifiable under CETSH No.48119099 of the schedule to the CETA and attracts Central Excise Duty @ 12.5% Adv; that after initiation of the enquiry, they had obtained Central Excise Registration No. AAECM6888PEM001 dated 09-09-2016.

Further, stated that they had not paid any amount of Central Excise Duty on printed Decorative Paper manufactures on job-work basis for various clients, since they were of the opinion that the product manufactured by M/s MGPL, was a product of printing industry and falls under CETSH No. 49119990 attracting NIL rate of Central Excise Duty; that they had done only job-work for various clients which were registered with Central Excise Department and used aforesaid printed Decorative Paper as raw material in the manufacturing of dutiable final product viz- Decorative Laminated Sheets (CETH 4811), Laminated Block Board (CETH 4823), Laminated Particle Board (CETH 4410) etc., hence as per Job-Work exemption Notification No. 214/86-CE dated 25-03-1986, as amended they were exempted to pay duty on the printed Decorative Paper manufactured on job-work basis for various clients; that they had collected details from their clients i.e. principal manufactures and produced a list of their clients as

detailed in Annexure-I, who had got Printed Decorative Paper manufactured on job work basis from M/s MGPL and not used the same for manufacturing of dutiable final product; that in addition to the above, they had also constituted two trading firms viz. - (1) M/s. Aman Fashion P. Ltd and (2) M/s. Natural Decor and purchased raw material i.e. Base Paper and after manufacturing printed Decorative Paper from M/s MGPL on job-work basis, sold the product different buyers; that except the clients shown in Annexure-I and their two trading firms - (1) M/s. Aman Fashion P. Ltd and (2) M/s. Natural Decor, all their clients had used printed decorative paper (i.e. the goods manufactured on job work basis by M/s MGPL) for manufacturing of dutiable final products viz- High pressure Laminated Sheets, Particle Boards, MDF Boards, they had received Base Paper either under Job-Work Challan or directly from supplier of Base Paper with invoice and challan and after job-work sent the printed Decorative Paper to the client and they had charged only job-charged form the clients; that the job work done by M/s MGPL for the clients, except shown in Annexure-I and for their two trading firms - (1) M/s. Aman Fashion P. Ltd and (2) M/s. Natural Decor, was eligible for exemption under the aforesaid Notification No. 214/86 - CE dated 25- 03-1986, as condition i.e. goods received after job work had been used in manufacturing of dutiable final product by the clients/principal manufactures; admitted that they had not fulfilled conditions of Notification No.214/86-CE dated 25-03- 1986 for the clients shown in Annexure-I and their two trading firms (1) M/s. Aman Fashion P. Ltd and (2) M/s. Natural Decor and liable to pay applicable Central Excise duty on the printed decorative paper manufactured on job work basis for the clients shown in aforesaid Annexure-I and for our two trading firms (1) M/s. Aman Fashion P. Ltd and (2) M/s. Natural Decor; that they would pay appropriate duty and submit proof of payment within 15 days; that during my earlier statement dated 09-09-2016, he had submitted tentative value of the goods manufactured by our unit for aforesaid two trading unit viz. (1) M/s. Aman Fashion P. Ltd. and (2) M/s. Natural Decor, which also include the value of the traded goods, correct details of job work done by M/s MGPL for these two trading units were as per the Job Work Register submitted by him, that M/s MGPL had not manufactured printed Decorative Paper on job-work basis for their trading firm M/s Kewal Corporation; that he will submit the details of sales of printed decorative paper made by aforesaid (1) M/s. Aman Fashion P. Ltd. and (2) M/s. Natural Decor, which was manufactured on job work basis from M/s MGPL during 2012-13 to 2016-17.

9. Further statement of Shri Anandkumar Agarwal Director of M/s MGPL, was recorded on 29-03-2017, wherein he, *inter alia*, submitted Annexure-II showing year-wise Summary of the Job-work done, value of the base paper and job-work charges billed/received from the clients shown in the Annexure-I for the period from F.Y.2012-13 to 2016-17 (up to 09-09-2016) which was prepared on the basis of job-work register maintained by them; that the details shown in the Annexure-11 were true and correct; that details shown in the job-work register submitted by him during the statement dated 08-12-2016 was prepared on the basis of the Bills / Challans of Base Paper received from the clients and job-work invoices issued by M/s MGPL which were true and correct; that has also submitted Annexure-III, showing details of the sale of Decorative Printed Paper by their two trading firms (1 ) M/s. Aman Fashion P. Ltd., and (2) Natural Decor which was got manufactured in M/s MGPL from F.Y. 2012-13 to till date; that he has perused Section 4 of the Central Excise Act, 1944 and the Central Excise Valuation (Determination of Price of Excisable Goods) Rules,2000, that accordingly, M/s MGPL liable to pay Central Excise Duty on the value determined as per aforesaid Rule 8 on the printed Decorative Paper manufactured and cleared on job-work basis for the clients as detailed in the aforesaid Annexure-I ; that M/s MGPL was also liable to pay Central Excise Duty on the value determined as per aforesaid Rule 9 on the printed Decorative Paper manufactured and sold through their two trading firms (1) M/s. Aman Fashion P. Ltd. and (2) M/s. Natural Decor, as both the trading firms are related entities of M/s MGPL as per the provisions of Section 4 of Central Excise Act,1944; that they have paid Central Excise Duty amounting to Rs. 50,00,000/- vide GAR-7 Challan No.00181,00190,00192, 00194 & 00196 all dated 19-06-2016 and they would pay remaining Central Excise Duty after consulting the management, if payable by their unit M/s MGPL.

10. On examination of the documents/records resumed/recovered during the course of

investigation and from the oral statements, it was revealed that M/s. MGPL had manufactured and cleared different types of printed Decorative Paper in rolls by classifying the same as a product of printing industry under Central Excise Tariff Sub-heading (CETSH)- 49119990 attracting NIL rate of Central Excise Duty. Therefore they had neither obtained any Central Excise Registration nor paid any Central Excise Duty on the aforesaid product.

11. M/s MGPL was engaged in printing of Decorative Paper in Rolls form for which they used 'Uncoated Printing Paper' i.e. 'Base Paper in Rolls' and as per requirement of the clients, they manufactured "Printed Decorative Paper in Rolls Form" of various types of designs and colour combination as per order of the clients. The decorative printing carried out by their unit M/s MGPL, was a particular form of rotogravure printing. Rotogravure printing was a continuous printing process, in which base paper in roll form was used and after printing finished goods decorative printed paper was also remains in roll form. The product so manufactured i.e. printed decorative paper is used for manufacturing of Decorative Laminated Sheets, Particle Boards, MDF Boards as decorative surface of the product. After decorative printing of Base Paper there is emergence of a new Commercial product different from the one with the process started i.e. printed Decorative Paper is a different Commercial product from the base paper having different name, characteristics and us, which it does not bear earlier. It is to appreciated that its the printed Decorative Paper and not the base paper which is used for manufacturing of particular and specific product i.e. Decorative Laminated Sheets, Particle Boards, MDF Boards. The end use changed as a result of decorative printing process undertaken by M/s MGPL. The process of aforesaid particular kind of printing has resulted in to a new commercial product, different from the one with which the process started. Thus, the resultant finished goods is an article with different name, character and use, which did not bear earlier.

**12. RELEVANT PROVISIONS OF CHAPTER NOTES/SUPPLEMENTARY NOTES, CHAPTER SUB-HEADING ETC. OF THE SCHEDULE TO THE CETA, 1985 AND HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM (HSN):-**

12.1 And CETSH no 49119990 under which M/s MGPL had classified the printed Decorative paper is as under-

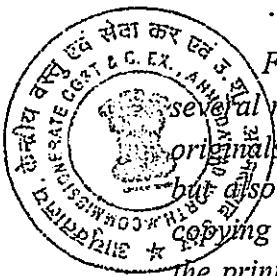
Tariff	Item Description of goods	Unit	Rate of duty
4911	Other printed matter, including pictures and photographs		
4911 10	-Trade advertising material, commercial catalogues and like:		
4911 99	--- Other		
4911 99 10	--- Hardcopy (printed) of computer software --	Kg.	Nil
4911 99 20	-- Plan and drawings for architectural engineering, industrial, commercial, topographical or similar purposes reproduced with the aid of computer or any other devices	Kg.	Nil
491 99 90	---Other	Kg.	Nil

The General Note of Chapter 49 of HSN is as under-

*With the few exceptions referred to below, this Chapter covers all printed matter of which the essential nature and use is determined by the fact of its being printed with motifs, characters or pictorial representations.*

.....  
.....

*For the purpose of this Chapter, the term "printed" includes not only reproduction by the several methods of ordinary hand printing (e.g., print from engravings or woodcuts, other than originals) or mechanical printing (letterpress, offset printing, lithography, photogravure, etc.), but also reproduction by duplicating machine, embossing, photography, photocopying thermo copying or typewriting see Note 2 to this Chapter) irrespective of the form of characters in which the printing is executed (e.g., letters of any alphabet, figures, shorthand signs, Morse or other code symbols, Braille characters, musical notations, pictures, diagrams). **The Term Does not, however, include coloration, decorative or repetitive-design printing.***



As per the above General Chapter Note of the HSN, the decorative printing does not fall under the Chapter 49 of the Central Excise Tariff Act, 1985. Therefore, M/s MGPL had wrongly classified the printed Decorative Paper CETSH-49119990. And whereas, the Chapter Heading 4811 of the Central Excise Tariff, Act 1985, is as under-

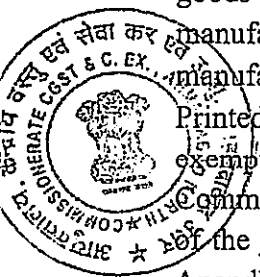
Tariff	Item Description of goods	Unit	Rate of duty
4811	- PAPER, PAPERBOARD, CELLULOSE WADDING AND WEBS OF CELLULOSE FIBRES, COATED, IMPREGNATED, COVERED, SURFACE-COLOURED, SURFACE DECORATED OR PRINTED, IN ROLLS OR RECTANGULAR (INCLUDING SQUARE) SHEETS, OF ANY SIZE, OTHER THAN GOODS OF THE KIND DESCRIBED IN HEADING 4803, 4809 OR 4810		
481190	--- Other paper, paperboard, cellulose wadding and webs of cellulose fibres : --- Handmade paper and paperboard, rules, lined or squared but not otherwise printed; chromo and art paper; coated, building board of paper or pulp, impregnated; chromo board; raw base paper for sensitising, coated; surface marbled; leather board and imitation leather board; and matrix board:		
481190 99	---- Other	Kg.	12.5%

The Chapter Heading 4811 of the Central Excise Tariff Act, 1985 cover PAPER SURFACE-COLOURED, SURFACE-DECORATED OR PRINTED, IN ROLLS. Therefore, the product manufactured by M/s MGPL i.e. printed Decorative Paper in rolls is rightly classifiable under CETSH-48119099 of CETA and attracts Central Excise Duty.

In view of the, it is clear that the process of decorative printing on base paper amounts to manufacture and as per General Chapter Note of the HSN, the decorative printing does not fall under the Chapter 49 of the Central Excise Tariff Act, 1985. Hence, M/s MGPL had wrongly classified the printed Decorative Paper under CETSH No. 49119990. The Chapter Heading 4811 of the Central Excise Tariff Act, 1985, covers PAPER SURFACE COLOURED, SURFACE-DECORATED OR PRINTED, IN ROLLS. Therefore, the product manufactured by M/s MGPL i.e. printed Decorative Paper in rolls is rightly classifiable under CETSH No. 48119099 of CETA and attracts Central Excise Duty.

12.2 M/s MGPL had manufactured aforesaid printed Decorative Paper in rolls classifiable under CETSH No. 48119099 of CETA, 1985 on job work basis for the manufacturers registered with Central Excise Department. They were sending raw materials i.e. Base Paper in Rolls for manufacturing of the excisable goods i.e. Printed Decorative Papers in rolls on job work basis under job work challans to M/s MGPL, who after manufacturing said goods cleared without payment of Central Excise duty leviable thereon, availing the benefit of job-work Exemption Notification No. 214/86-C.E. dated 25-03-1986, as amended. Said manufacturers had used said goods in the manufacture of the dutiable finished excisable goods, as such.

12.3 Further, M/s MGPL was also manufacturing said excisable goods (Printed Decorative Papers in rolls) on job work basis for other manufacturers as detailed in following TABLE-I. They are sending raw materials i.e. Base Paper in Rolls for manufacturing of the excisable goods i.e. Printed Decorative Papers in rolls on job work basis to M/s MGPL, who after manufacturing cleared the same without payment of Central Excise duty leviable thereon. Said manufacturers were engaged in the manufacture of exempted finished goods and using the said Printed Decorative Papers in Rolls, received from M/s MGPL in the manufacture of their exempted goods. Said manufactures had neither given undertaking to the Assistant/Deputy Commissioner of Central Excise having jurisdiction of M/s MGPL nor fulfill the conditions of the job-work Exemption Notification No. 214/86- C.E. dated 25-03-1986, as amended. Shri Anandkumar Agrawal, Director of M/s MGPL has admitted these facts in his statement dated 08-12-2016. It appears that M/s MGPL is, therefore, not entitled for the benefit of said exemption notification and liable to pay Central Excise Duty at appropriate rate on the printed





Decorative Paper manufactured on job work basis and cleared to the manufactures as detailed in the TABLE-I to the show cause notice.

12.4 Further, it appeared that M/s MGPL had also constituted two trading firms viz.-(i) M/s. Aman Fashion P. Ltd and (ii) M/s. Natural Decor, operated by the own family members. They are sending raw materials i.e. Base Paper in Rolls for manufacturing of the said goods on job work basis to M/s MGPL, who after manufacturing cleared the same without payment of Central Excise duty leviable thereon. Said firms had sold the printed Decorative Paper in rolls to different buyers. In such cases also, M/s MGPL is not entitled for aforesaid job-work Exemption Notification and liable to pay Central Excise duty on said goods. It further appears that Shri Anandkumar Agrawal, Director of M/s MGPL, in his statements dated 09-09-2016, 08-12-2016 and 29-03-2017 has also categorically admitted the above facts.

12.5 Valuation- For the purpose of discharging Central Excise duty valuation is to be done as per Section 4 of the Central Excise Act, 1944, for the ease of understanding same is reproduce as under-

*Section 4. Valuation of excisable goods for purposes of charging of duty of excise. -(1) Where under this Act, the duty of excise is chargeable on any excisable goods with reference to their value, then, on each removal of the goods, such value shall*

*(a) in a case where the goods are sold by the assessee, for delivery at the time and place of the removal, the assessee and the buyer of the goods are not related and the price is the sole consideration for the sale, be the transaction value;*

*(b) in any other case, including the case where the goods are not sold, be the value determined in such manner as may be prescribed.*

For the purpose of valuation as per Sub-Section 1 (b) of Section 4 of the Central Excise Act, 1944, the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 are applicable. The Rule 8 and Rule 9 of these rules are as under

*Rule 8- Where the excisable goods are not sold by the assessee but are used for consumption by him or on his behalf in the production or manufacture of other articles, the value shall be one hundred and ten per cent of the cost of production or manufacture of such goods.*

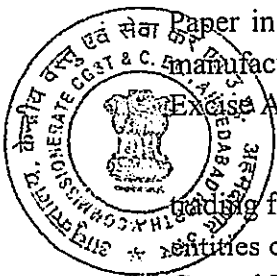
*Rule 9- When the assessee so arranges that the excisable goods are not sold by an assessee except to or through a person who is related in the manner specified in either of sub-clauses (ii), (iii) or (iv) of clause (b) of sub-section (3) of section 4 of the Act, the value of the goods shall be the normal transaction value at which these are sold by the related person at the time of removal, to buyers (not being related person); or where such goods are not sold to such buyers, to buyers (being related person), who sells such goods in retail : Provided that in a case where the related person does not sell the goods but uses or consumes such goods in the production or manufacture of articles, the value shall be determined in the manner specified in rule 8.*

In view of above provisions, it appeared that the valuation of the goods manufactured on job work basis and cleared to the manufactures who had not consumed printed Decorative Paper in manufacturing of dutiable final product and had captively consumed the same in the manufacture of exempted final product, is to be done as per the provision of Section 4 of Central Excise Act, 1944 read with Rule 8 *ibid*.

In the case of the goods manufactured on job work basis and sold through their two trading firms viz. (1) M/s. Aman Fashion P. Ltd. and (2) M/s. Natural Decor, which are related entities of M/s MGPL, the valuation of said goods to be done as per the provision of Section 4 of Central Excise Act, 1944 read With Rule 9 *ibid*.

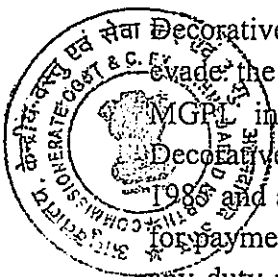
13. In view of the investigation conducted by the DGCEI (now DGGSTI), it is revealed that:-

- (i) M/s. MGPL had manufactured and cleared different types of printed Decorative Paper in rolls.



- (ii) The decorative printing carried out by M/s MGPL, was a particular form of rotogravure printing. Rotogravure printing was a continuous printing process, in which base paper in roll form was used and after printing, finished goods i.e. Printed Decorative Paper was also remains in roll form. The Printed Decorative Paper manufactured by M/s MGPL was used for manufacturing of High pressure decorative Laminated Sheets, Particle Boards, MDF Boards as decorative surface of the product.
- (iii) After, decorative printing end use is now confirmed to particular and specific use for manufacturing of High pressure decorative Laminated Sheets, Particle Boards, MDF Boards etc. The end use changed as a result of decorative printing process undertaken by M/s MGPL. The process of aforesaid particular kind of printing has resulted in to a new commercial product, different from the one with which the process started. Thus, the resultant finished goods is an article with different name, character and use, which did not bear earlier.
- (iv) M/s MGPL had wrongly classified the printed Decorative Paper under CETSH No. 49119990 of the schedule to the CETA, 1985. As per the aforesaid General Chapter Note of the HSN, the decorative printing does not fall under the Chapter 49 of the Central Excise Tariff Act, 1985.
- (v) The Chapter Heading 4811 of the Central Excise Tariff Act, 1985 cover PAPER SURFACE-COLOURED, SURFACE-DECORATED OR PRINTED, IN ROLLS. The product manufactured by M/s MGPL i.e. printed Decorative Paper in rolls is rightly classifiable under CETSH No. 48119099 of the schedule to the CETA, 1985 and attracts Central Excise Duty.
- (vi) Further, the condition to avail exemption for job work under the Notification No. 214/86-CE dated 25-03-1986, as amended is that the principal manufacture should use the goods got manufactured on job work basis in the manufacturing of dutiable final product and fulfill the conditions of the said notification.
- (vii) M/s MGPL had not paid Central Excise duty on said finished excisable goods manufactured on job work basis on behalf of the manufactures as well as their aforesaid related two trading firms.
- (viii) In case of goods cleared to the manufactures, M/s MGPL is not entitled for exemption under said notification as said parties had captively consumed said finished goods in manufacture of their exempted final product. The value of such goods is determined as per the provision of Section 4 of Central Excise Act, 1944 read with Rule 8 *ibid*.
- (ix) In case of goods cleared to their own related trading firms viz.-(1) M/s. Aman Fashion P. Ltd and (2)M/s. Natural Decor, M/s MGPL is also not entitled for exemption under said notification as said trading firms had sold said finished goods as such in local market without payment of Central Excise duty thereon. The value of such goods is determined as per the provision of Section 4 of Central Excise Act, 1944 read with Rule 9 *ibid*.
- (x) The above facts were categorically admitted by Shri Anandkuamr, Director of M/s MGPL, in his above statements dated 09-09-2016, 08- 12-2016 and 29-03-2017.

14. It further appeared that M/s MGPL had knowingly misclassified the product i.e. Printed Decorative Paper in rolls under CETSH No. 49119990 of the schedule to the CET A, 1985 to evade the Central Excise Duty payable thereon. Shri Anandkumar Agarwal Director of M/s MGPL in his statements agreed that the product manufactured by their unit was printed Decorative Paper rightly classifiable under CETSH No. 48119099 of the schedule to the CETA, 1985 and attracts Central Excise Duty. In spite of knowing that the aforesaid product was liable for payment of Central Excise Duty, they had neither taken Central Excise Registration nor paid any duty payable thereon. Admitting their offence after initiation of inquiry by DGCEI, they have obtained Central Excise Registration and started paying duty on the printed Decorative Paper in rolls manufacture and cleared by them by classifying the same under CETSH No.



49119990 of the schedule to the CETA, 1985. Further, before initiation of inquiry they had never informed the department regarding the product and their classification. They had knowingly misclassified the product i.e. Printed Decorative Paper with intention to evade the Central Excise Duty payable thereon.

15. It appeared that M/s. MGPL has wrongly classified printed Decorative Paper under CETH 49119990 of the schedule to the CETA, 1985 and cleared the same at NIL rate of duty. In fact, the aforesaid products manufactured by M/s. MGPL correctly classifiable under CETSH No. 48119099 of the schedule to the CETA, 1985 and attracts Central Excise Duty. Accordingly, Central Excise Duty payable by M/s MGPL on the printed Decorative Paper manufactured and cleared during the F.Y 2012-13 to F.Y. 2016-17 (up to 09-09-2016) has been worked out as per the show cause notice.

15.1 The financial year-wise details of the quantity printed Decorative Paper manufactured on job-work basis and cleared by M/s MGPL, value of the base paper and job charges collected in respect of the manufactures as detailed in the TABLE-I to the SCN, who had used printed Decorative Paper in manufacturing of exempted final product and also not fulfilled the conditions of the job-work Notification No.214/86-CE dated 25-03-1986. These details are prepared on the basis of the job-work register, purchase invoices of the base paper and job-charges invoices raised by M/s MGPL.

15.2 The Central Excise Duty payable by M/s MGPL in respect of the printed Decorative Paper manufactured on job-work basis and cleared to the manufactures as detailed in the TABLE-I to the SCN, who had used printed Decorative Paper in manufacturing of exempted final product and also not fulfilled the conditions of the job-work Notification No.214/86-CE dated 25-03-1986. The assessable value for the calculation of Central Excise Duty is determined as per Rule 8 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000. As per said Rule 8, assessable value is 110% of the value of Base Paper used and job-charges. According to which M/s MGPL had manufactured and cleared 38,51,284 kgs printed Decorative Paper, valued at Rs.53,87,87,251/- and evaded Central Excise Duty amounting to Rs.6,68,71,106/- payable thereon.

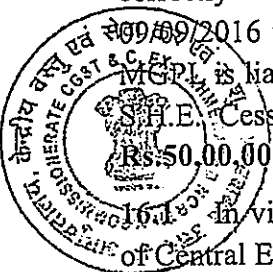
15.3 The sales details of the printed Decorative Paper by their trading firms viz-(1) M/s. Aman Fashion P. Ltd. and (2) M/s. Natural Decor, which was manufactured by M/s MGPL on job work basis. These details are prepared on the basis of the job-work register, purchase invoices of the base paper and job-charges invoices raised by M/s MGPL.

15.4 The Central Excise Duty payable by MGPL in respect of the printed Decorative Paper manufactured on job-work basis and cleared to the related parties (1) M/s. Aman Fashion P. Ltd. and (2) M/s. Natural Decor, who had not used printed Decorative Paper in manufacturing of dutiable final product and had sold to different buyers. The assessable value for the calculation of Central Excise Duty is determined as per Rule 9 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000. As per said Rule 9 the assessable value is the value at which the product was sold by the trading firm to the clients. According to which M/s MGPL had manufactured and cleared 8,69,851kgs printed Decorative Paper, valued at Rs.14,98,43,626/- and evaded Central Excise Duty amounting to Rs.1,87,10,112/- payable thereon.

15.5 The summary of Central Excise Duty evaded by M/s MGPL on printed Decorative Paper manufactured and cleared by misclassifying the same under CETSH No. 49119990 instead of correctly classifying in the CETSH No.48119099 during the period from 01/04/2012 to 09/09/2016 which is to be demanded under this Show Cause Notice. According to which, M/s MGPL is liable to pay Central Excise Duty amounting to Rs.8,55,81,217/- (including Edu. Cess, S.H.E. Cess), out of which they have voluntarily paid Central Excise Duty amounting to Rs.50,00,000/- by GAR-7 Challans after initiation of inquiry by DGCEI

In view of the above, it appeared that M/s MGPL has contravened following provisions of Central Excise Act, 1944 and Rules framed there under:-

- (i) Section 3 of the Central Excise Act 1944 in as much as they cleared the excisable goods



without payment of appropriate Central Excise Duty.

- (ii) Rule 4 of the Central Excise Rules, 2002 in as much as they had failed to discharge duty on the removal of their final product in the manner provided under the law. As discussed in foregoing paras, they had wrongly classified the product 'Printed Decorative Paper in rolls' and failed to discharge appropriate duty on removal of the same;
- (iii) Rule 6 of the Central Excise Rules, 2002 in as much as they failed to assess duty on their final product properly;
- (iv) Rule 8 of the Central Excise Rules, 2002 in as much as they failed to pay proper Central Excise duty on their final products by stipulated time;
- (v) Rule 10 of the Central Excise Rules, 2002 in as much as they failed to maintain proper records on a daily basis by showing wrong description of the goods, cleared by them, as discussed in foregoing paras.
- (vi) Provisions of job work exemption Notification No. 214/86-CE dated 25-03-1986, as amended.

16.2 The aforesaid acts of omission and commission on the part of M/s. MGPL appeared to have committed an offence by way of wilful mis-statement, in as much as they had mis-classified and cleared the printed Decorative Paper in rolls under CETSH No. 49119990 of the schedule to the CETA, 1985 and wrongly availed benefit of job work exemption Notification No. 214/86-CE dated 25-03-1986, as amended and resulting in non payment of duty. They wilful defrauded the Govt. revenue by adopting the novel modus operandi, as discussed in details in foregoing paras. Hence, they have short paid the duty by reason of fraud, collusion, or wilful mis-statement or suppression of facts or contravention of provisions of this Act or of the rules made thereunder with mala fide intention to evade payment of Central Excise duty. Shri Anandkumar Agarwal, Director of M/s MGPL described the modus operandi, adopted by them, vide his statements dated 09-09-2016, 08-12-2016 and 29-03-2017. It, appeared that the total Central Excise duty amounting to Rs. 8,55,81,217/- (BED Rs. 8,43,01,564/- + Edu Cess Rs. 8,53,102/- + HSE Cess Rs. 4,26,551/-), as detailed in Annexure C to this SCN, is recoverable from M/s. MGPL by invoking extended period in terms of proviso to Section 11A (4) of the Central Excise Act, 1944 along with interest for delayed payment of evaded Central Excise duty under Section 11AA of the Central Excise Act, 1944. Further, the aforesaid goods appeared to be liable for confiscation under Rule 25 of Central Excise Rules, 2002, however same are not available for confiscation. For the acts of mis-statement and contravention of above provisions, they also appeared to be liable for penalty under Section 11AC of the Central Excise Act, 1944 read with Rule 25 of Central Excise Rules, 2002.

16.3 Shri Anandkumar Shankarlal Agarwal, Director of M/s MGPL is the key person, who is looking after all the operations relating to production, accounts and taxation matters. He is the master mind behind this modus operandi, which resulted into evasion of duty amounting to Rs. 8,55,81,217/- Thus, it appeared that Shri Anandkumar Shankarlal Agarwal, acquires possession of, or is in any way concerned in manufacturing, transporting, removing, depositing, keeping, or in any other manner deals with, any excisable goods which he had known or has reason to believe are liable to confiscation under the Act or these rules. All these acts of omission and commission on the part of Shri Anandkumar Shankarlal Agarwal has rendered himself liable for penalty under Rule 26 of the Central Excise Rules, 2002.

Therefore, M/s. Match Graphics Pvt. Ltd, 497A, 419A, 498A, Radhe Industrial Estate, Tarpur Road, Changodar, Ahmedabad, was called upon to show cause to the Commissioner of Central Excise and Customs, Ahmedabad- II, vide SCN No. DGCEI/AZU/36-34/2017-18 dated 28-04-2017 issued by the Additional Director General, DGCEI (now DGGSTI), AZU, Ahmedabad as to why:-

- (i) Excisable Goods viz. "Printed Decorative Paper in Rolls" manufacture and cleared by them should not be classified under CETSH No. 48119099 of the schedule to the

CETA, 1985.

- (ii) The Central Excise duty totally amounting to Rs. 8,55,81,217/- (BED Rs. 8,43,01,564/- + Edu Cess Rs. 8,53,102/- + HSE Cess Rs. 4,26,551/-), not paid/short paid by them during F.Y. 2012-13 to F.Y. 2016-17 (up to 19-Sept-2016), should not be demanded and recovered from them by invoking extended period of time in terms of proviso to Section 11A(4) of the Central Excise Act, 1944.
- (iii) an amount of Rs.50,00,000/- voluntarily paid during investigation vide GAR-7 Challan No. 00181, 00190, 00192, 00194 & 00196 all dated 19-06-2016 should not be appropriated against the aforesaid demand subject to verification by the jurisdictional Central Excise Officer.
- (iv) Interest at the applicable rate on the amount mentioned at SI. No (ii) above should not be recovered from them under Section 11AA of Central Excise Act, 1944;
- (v) Penalty should not be imposed upon them under Section 11AC of the Central Excise Act, 1944 read with Rule 25 of Central Excise Rules, 2002

16.5 Shri Anandkumar Shankarlal Agarwal, Director of M/s. Match Graphics Pvt. Ltd, 497 A, 419A,498A, Radhe Industrial Estate, Tajpur Road, Changodar, Ahmedabad was called upon to show cause to the Commissioner of Central Excise and Customs, Ahmedabad-II, as to why personal penalty should not be imposed upon him under Rule 26 of the Central Excise Rules, 2002 for the reasons enumerated in the show cause notice.

### DEFENCE REPLY:

17. M/s Match Graphics Ltd, vide their reply received in this office on 23.08.2017 has submitted that –

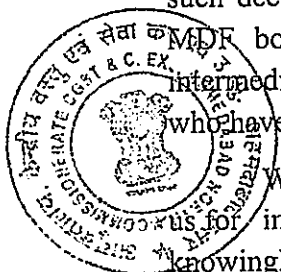
17.1 “ We have received the above referred show cause notice by which a proposal to demand and recover Rs.8,55,81,217/- as excise duty is leveled against our Company with further proposals for charging interest and imposing penalty under the provisions of the Central Excise Act, 1944 and the Central Excise Rules, 2002. A proposal for imposing personal penalty on the Director Shri Anandkumar Agarwal is also leveled invoking Rule 26 of the said Rules.

These proposals are leveled for the period of F.Y. 2012-13 to F.Y. 2016-17 on the basis that the products produced by us on job work basis were chargeable to excise duty as Printed Decorative Papers in rolls meriting classification under Heading 48119099 of the Central Excise Tariff, whereas they were allegedly mis-classified by us as product of printing industry under Heading 49119990 attracting nil rate of excise duty.

#### (i) Case in the SCN:

We have noted that the issue raised in the show cause notice is that decorative printing does not fall under Chapter 49 of the Central Excise Tariff by virtue of the general note of Chapter 49 of Harmonious System of Nomenclature (HSN) and therefore decorative printing undertaken by us on uncoated printing paper i.e. base paper was not manufacture of goods of printing industry. Since we have undertaken job work of printing various types of designs and colour combinations on base paper in accordance with the orders of the clients who were using such decorated printed papers for manufacturing goods like laminated sheets, particle boards, MDF boards etc. which were exempted finished goods, demand of excise duty on the intermediate products produced by us on job work is leveled in respect of such manufacturers who have used printed decorative papers for manufacturing such exempted finished goods.

We have also noted that allegation of mis-classification of the product is leveled against us for invoking larger period of limitation for demanding excise duty. It is suggested that we knowingly misclassified the product under Heading No.49119990 of the Tariff to evade central excise duty payable thereon; and inspite of knowing that the product was liable for payment of excise duty, we did not take Central Excise Registration nor did we pay any excise duty payable on the products in question. On the basis that we have never informed



the Department about the product and the classification thereof, the allegation of mis-classification of the product with intention to evade central excise duty is made, and accordingly larger period of limitation is invoked against us.

(ii) **Denial of Allegation:**

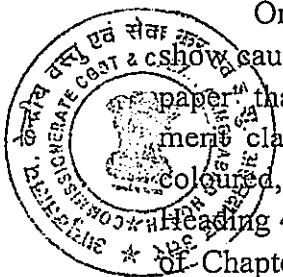
At the outset, we submit that the issues raised in this show cause notice are unsustainable in facts as well as in law. At the outset, we also submit that there is no mis-classification of goods by us nor have we ever entertained any intention to evade payment of excise duty on the concerned goods produced by us on job work basis. We emphasise that we have entertained a bonafide belief, and we still hold such belief, that the goods in question are products of printing industry appropriately meriting classification under Chapter 49 of the Tariff, and that they attract nil rate of duty under Chapter 49. During the enquiry also, our Director has informed the Officers on all occasions that we hold a view that the goods in question are not classifiable under Chapter 48 and therefore we did not obtain Central Excise registration nor did we pay any amount as excise duty on such goods. There is no evidence brought on record by the Revenue in this case indicating that we had "knowingly" mis-classified the product, and that "inspite of knowing" that the product was liable for payment of duty we had not taken Registration or paid duty thereon. We also emphasise that decorative printing on base paper imparts essential character to the goods in question as "surface paper" for the final products like decorative laminates, particle boards, MDF boards etc. and therefore decorative printing undertaken by us on base paper is not merely incidental to the primary use of the goods as "surface paper"; but without the designs, motifs and colours desired by the customers being printed on the base paper, the products cannot be used as "surface paper" for the above referred final goods, and accordingly the essential nature of the goods in question, namely, "surface paper" for decorative laminates, pre-laminates particle boards etc. is because they are printed, and a particular type of decorative printing is undertaken on base paper.

(iii) We therefore submit that the issue of classification raised in the show cause notice is an unauthorized action because the goods in question do not merit classification under Chapter 48 of the Tariff, and the invocation of the larger period of limitation is also an unauthorized action because there is no mis-classification of the goods by us with intent to evade payment of excise duty. The goods merit classification under Chapter 49 of the Tariff as product of printing industry, and there have been circumstances and factors resulting in such an impression about the classification of the goods under Chapter 49 of the Tariff on our part. The proposal leveled in the show cause notice are illegal and incorrect, and therefore we request you to withdraw this show cause notice in the interest of justice.

17.2 **The Core issue:**

The show cause notice issued to us runs into 16 pages. This show cause notice refers to a panchnama drawn at our factory on 9.9.2016, and also to statements of our Director Shri Anandkumar Agarwal recorded on three occasions viz. 9.9.2016, 8.12.2016 and 29.3.2017. However, no other evidence like any market enquiry or product catalogues etc. is referred to in the proceedings by the Revenue. In addition to the panchnama and the statements, the only other material referred to by the Revenue is the texts of Heading Nos. 4811 and 4911 of the Central Excise Tariff, and an extract of a general note of Chapter 49 of HSN.

On the basis of the above referred material and evidence, the core issue raised in the show cause notice is about classification of the product commercially known as "surface paper" that we have produced on job work basis. The Revenue's case is that these goods merit classification under Heading 4811 since the goods are 'in the nature of surface coloured, surface decorated or printed paper in rolls', and such goods are covered under Heading 4811 of the Tariff. It is also the Revenue's case that it is stated in the general notes of Chapter 49 of HSN that the term printed 'does not include coloration, decorative or repetitive-design printing', and since what we have undertaken on base paper is decorative printing, the product obtained by such decorative printing would not fall under Chapter 49



of the Tariff.

Thus, the core issue raised in the show cause notice is about classification of "surface paper", and the proposal to classify these goods under heading 4811 is based on the general note of chapter 49 of HSN.

Having identified the core issue involved in this case, the facts about which there is no dispute in this proceeding and which are relevant for deciding the question of classification may also be briefly referred to hereunder.

### 17.3 The Admitted Facts:

During the enquiry, statements of our Director have been recorded; and the facts about the method of conducting business including about the processing undertaken by us on the inputs, the nature of the product emerging as a result thereof, and the end use of such product have been explained by our Director. Such facts are recorded by the Officers, and they are also referred to in the show cause notice without any dispute. What emerges from such admitted facts is as under:

- (i) That we have been undertaking decorative printing on uncoated printing paper, also known as base paper, by using rotogravure printing.
- (ii) That printing of designs, color combination etc. have always been in accordance with the orders of the clients, and thus the printing on base paper is always as per the requirements of the clients.
- (iii) That the printed decorative paper produced by us is used as decorative surface of the goods produced by the clients which are in the nature of decorative laminates, particle boards, MDF boards etc. The end use of printed decorative paper produced by us is always as a decorative surface of the above referred types of consumer goods.
- (iv) That the goods produced by us are known as "surface paper" because they are used as a decorative surface for the above referred consumer goods, and the end use of the decorative surface paper is always as the top layer on the surface of the final products like decorative laminates, particle boards, MDF boards etc.
- (v) That we have undertaken decorative printing on base paper and produced surface paper on job work basis for the clients. However, those clients whose final products are chargeable to excise duty have followed the procedure of Notification No.214/86-CE whereas the clients whose final products have been exempt from payment of Central Excise duty (like particle boards, MDF board etc.) have not followed such procedure for job work.

There is no dispute about the above referred facts in this proceedings, and they are recorded also at several places in the show cause notice. Now, these facts, particularly those about the nature of the goods produced by us and their end use, have a great bearing on the core question of classification thereof.

### 17.4. Scope of Chapter 49:

Chapter 49 of the Tariff covers "Printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans". The term "printed" is explained under note No.2 of Chapter 49 of the Tariff as also meaning reproduction by means of a duplicating machine, produced under the control of an automatic data processing machine, embossed, photographed, photocopied, thermo-copied or type written. Thus, for the purpose of Chapter 49 of the Tariff, printing not only means conventional printing by employing printing machines, but reproductions by the above means is also printing, and the resultant product is a "printed" product for the purpose of classification under this chapter.

Since printing is ordinarily undertaken on paper, and paper is a product falling under

Chapter 48 of the Tariff, it is clarified under note No.12 of Chapter 48 of the Tariff that paper, paper board, Cellulose Wadding and articles thereof, printed with motifs, characters or pictorial representations, which are not merely incidental to the primary use of the goods, fall in Chapter 49.

Thus, products of printing industry, that is to say, even the products of paper or paper board on which printing is undertaken, which is not merely incidental to the primary use of the goods, falls in Chapter 49 of the Tariff. For the classification under Chapter 49 of the Tariff, the deciding factor is whether printing was only incidental to the primary use of the goods or such printing was essential for determining the use of the goods.

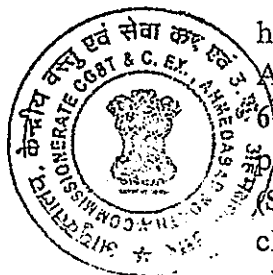
In Harmonious System of Nomenclature (HSN) also, it is laid down that all printed matter of which the essential nature and use was determined by the fact of its being printed with motifs, characters or pictorial representations were covered under Chapter 49; and this principle is, as aforesaid, embodied in Note No.12 to Chapter 48 of the Central Excise Tariff Act thereby providing that paper, paper board, cellulose wadding and articles thereof, printed with motifs, characters or pictorial representations, which are not merely incidental to the primary use of the goods, fall in Chapter 49. The scheme of Chapters 48 and 49 and also the concerned Notes for classification of goods under these two chapters make it clear that paper or articles thereof would not fall under Chapter 48 if they were printed and the printing was not merely incidental to the primary use of such goods, but printing was essential and the printing imparted essential nature and use to the goods.

i) Relevant Case Law:

The issue of classification of printed products obtained by printing on paper has come up for consideration and decision in various cases. In all such cases, the above principle that if printing was only incidental to the primary use of paper, then the printed product would fall under Chapter 48; but if printing was important and essential for the use of the product of paper then the printed paper product would fall under Chapter 49 has been applied by the Appellate Tribunal.

- (i) Lottery Tickets, Bus tickets, Cheque books and such products are held as classifiable under Chapter 49 by the Appellate Tribunal in case of Soi Security Printers Ltd. 2006 (199) ELT 121 (Tri.); in case of Data Processing Forms Pvt. Ltd. V /s. Commissioner, Ahmedabad, decided by the Appellate Tribunal, Ahmedabad, reported at 2014 (311) ELT 161, it is held that various products which were in the nature of printed/pre-printed invoice forms, slip forms, monthly bill forms etc. merit classification under Chapter 49 of the Tariff; and in a case of Malati Arts Pvt. Ltd. 2000 (118) ELT 133 (Tri.) which is very similar to the case involved herein, the Appellate Tribunal has considered a case where the assessee was undertaking printing on job work basis on paper and paper boards whereas the designs which were printed had been given and suggested by the buyers. Considering various other decisions, the Appellate Tribunal has held in this case of Malati Arts Pvt. Ltd. that such printing job work was correctly classifiable under Chapter 49 of the Tariff.

Wrappers, labels etc. produced by printing customer's design, logos etc. are held to be classifiable under sub heading No.490190 of the Excise Tariff by the Appellate Tribunal in case of Rathika Pvt. Ltd. v/s. Commissioner 2001 (133) ELT 610. Even if labels were of cloth, aluminium foil or plastic film, they are held as products of printing industry in case of Johnson & Johnson Ltd. 2003 (156) ELT 166 (SC) by the Hon'ble Supreme Court. In this case, the Appellate Tribunal had classified paper labels under Chapter 48, cloth labels under chapter 59 and aluminium foil labels under chapter 76 of the Tariff; but this decision of the Appellate Tribunal is over-ruled by the Hon' ble Supreme Court while holding that printing imparted the character of labels to the products and hence they were products of printing industry.





There are many other decisions also for products of paper, paper boards, plastic etc., wherein the classification is upheld under Chapter 49 because printing on paper or paper board or plastic and the like was found to be essential for the use of the printed product; and the design etc. that were printed had been supplied and ordered by the customers.

- (ii) In a recent case of Commissioner of Central Excise V /s. Gopsons Papers Ltd. 2015 (324) ELT 5 (SC), the Hon'ble Supreme Court has considered a case where the assessee printed thermal paper rolls by printing particulars as required by the buyers on uncoated side of a jumbo roll of paper. In some cases, monogram of the buyer was also printed on one side. The Hon'ble Supreme Court has held in this case that in so far as the assessee is concerned, it is undertaking the work of printing alone and is supplying to those who place orders in this behalf. Further observing that the work done by the assessee makes it clear that it is the printing which it is undertaking, the Hon'ble Supreme Court has held that the goods were rightly classified under chapter heading 4901. The Revenue's contention that thermal paper rolls were the raw material and hence classification should be determined accordingly has been rejected by the Hon'ble Supreme Court in this case.

From this judgment of the Hon'ble Supreme Court, it is clear that printing of particulars as per the requirement of buyers would result in production of goods of printing industry, which fall under chapter 49 of the Tariff.

(iii) **The Government's clarification:**

Very recently, the Government of India has issued a Circular No.1052/01/2017-CX dated 23.2.2017 through the CBEC for classification of articles of paper and printing industry. Various products like Railway/Post/Other tickets and Passes, Mark-sheets/Certificates, OMR Sheets etc. which are produced by printing on paper are considered while issuing this circular, and it is clarified that such products were classifiable under Chapter 49 even though they were products obtained by printing on paper. A copy of this Circular No. 1052/01/2017-CX dated 23.2.2017 is enclosed and marked as Annexure-"I".

(iv) **Test of No Commercial User without further process:**

In case of Servo-Med Industries Pvt. Ltd. 2015 (319) E

LT 578 (SC), The Hon'ble Supreme Court has observed that a two-fold test had emerged for deciding whether the process is that of manufacture. The first test is that a different commercial commodity must come into existence by a process. The second test is that the commodity which was already in existence will serve no purpose but for a certain process. While explaining this second test in true perspective, the Hon' ble Supreme Court has observed that only when a different and/or finished product comes into existence as a result of a process which makes the said product commercially usable, then the second test is satisfied. This test is referred as "test of no commercial user without further process" by the Hon' ble Supreme Court.

This test of no commercial user without further process is applied by the Hon' ble Supreme in the subsequent case of Commissioner of Central Excise, Bombay-IV V /s. Fitrite Packers reported in 2015 (224) ELT 625 (SC) wherein the product involved was "printed GI paper".

The assessee purchased GI paper from the market and used it as a "base paper"; and carried out printing on the base paper according to the designs and specifications of the customers depending on their requirements. After printing as per the requirement of the customers, the same was delivered to the customers in jumbo rolls without slitting. The assessee had not challenged classification of the product by the Revenue under Heading 4811.90, but the assessee contended that the processes by him did not constitute manufacture because printing on duty paid GI paper would not



amount to manufacture.

The Hon' ble Supreme Court has, after considering the decision of the Appellate Tribunal under challenge before it, has observed that GI paper was meant for wrapping and though blank paper could be used as wrapper for any kind of product, after the printing of logo and name of the specific product of Parle thereon, the end use was confined to only that particular and specific product of the said particular company /customer. It is further held by the Hon' ble Apex Court that printing was not merely a value addition but had now been transformed from general wrapping paper to special wrapping paper, and in that sense, end use had positively been changed as a result of printing process undertaken by the assessee.

In this case, the Hon' ble Supreme Court has held that when printing process undertaken by the assessee transformed a general wrapping paper to special wrapping paper, the process of particular kind of printing has resulted into a different product, namely, paper with distinct character and use of its own which it did not possess earlier. The test of no commercial user without further process is applied by the Hon'ble Supreme Court for holding that further process, namely, printing was required for the commercial use of GI paper (i.e. base paper) for using the same as a special wrapping paper. Thus, the principle settled by the Hon' ble Supreme Court is that when printing of a particular kind resulted into a paper with distinct character and use of its own which it did not bear earlier, it meant that the printing was not merely incidental to the use of the product, but it was essential for use and such use without particular kind of printing could not be made in respect of such product.

(v) Product in this case:

Now this principle may be applied in the facts of the present case. It is stated in para 8.2 of the show cause notice itself that we were manufacturing printed decorative paper of various types of designs and color combination as per order of the clients, and such printed decorative paper was used for manufacturing of decorative laminates sheets, particle boards, MDF boards as decorative surface of the product. It is thus an admitted fact of this case that various types of designs and color combinations printed by us has transformed the base paper into a surface paper, which is used as decorative surface of the above referred consumer products. This would also mean that without printing undertaken by us on base paper, "surface paper" would not come into existence, and such products cannot be used as decorative surface of the consumer goods like decorative laminates, particle boards, MDF boards etc. The printing of designs etc. in accordance with the orders of the clients has thus imparted a distinct essential character and use to surface paper, which the base paper did not possess earlier.

It is also stated in para 8.2 of the show cause notice that it is the printed decorative paper and not the base paper which is used for manufacturing of particular and specific product i.e. decorative laminates, particle boards, MDF boards etc. It is also recorded thereat that the end use changed as a result of decorative printing process undertaken by us. Now, the end use is admittedly as "surface paper" because such decorative surface is essential for the consumer goods like decorative laminated sheets, particle boards, MDF boards etc. Such decorative surface is the essential character of "surface paper", and this essential character and distinct use are only because of printing on base paper. The base paper without any decorative printing thereon cannot be used as "surface paper", and therefore printing undertaken by us is not merely incidental to the use of paper. The printing undertaken by us is rather essential and inevitable for the end use of the product as a decorative surface paper, and therefore such printing is the determining factor



for the purpose of classification of the goods in question.

#### 17.5. The Submission:

In view of the above, our submission is as under:

The unprinted base paper cannot be used as "surface paper", and it is actually not used as "surface paper" either by the manufacturers of decorative laminates, particle boards etc. The designs and decorations required by such clients are to be printed on the base paper so that the goods so produced by us can be used as "surface paper". The essential nature of the printed product as "surface paper" for decorative laminates, pre-laminated particle boards, MDF boards etc. is therefore determined by the fact of they being printed with desired designs and decoration. The use of the product as "surface paper" is also determined by the fact of the product being printed with desired designs and decorations. We therefore submit that printing undertaken by us is not merely incidental to the primary use of base paper, but such printing is essential and inevitable for the use of the base paper as "surface paper" because base paper could not be used as decorative surface paper for the above referred consumer goods without printing thereon.

We therefore also submit that the primary use of the goods in question as "surface paper" is possible only after printing of designs and decorations, and therefore the goods in question are in the nature of printed products manufactured by us as products of the printing industry. The goods would therefore merit classification under Heading 4911 of the Tariff.

#### 17.6. Chapter 48 and HSN Explanatory Notes:

For proposing classification of base paper as surface decorated or printed paper in rolls under Heading 48119099, the Revenue has referred to the general note of chapter 49 of HSN. But such reference is misplaced inasmuch as it is clarified under general note of chapter 49 of HSN that with the few exceptions referred under that note, the chapter covers all printed matter of which the essential nature and use is determined by the fact of its being printed with motifs, characters or pictorial representations. In view of the admitted fact that the goods in question could be used as decorative "surface paper" for the final products like decorative laminates, particle boards, MDF boards etc. only because they are printed with designs and decorations ordered by the clients and thus the distinct character and use as "surface paper" are acquired by the goods in question only because they are printed with designs, motifs and characters, the goods are covered under chapter 49 by virtue of the above general explanatory notes of HSN.

- (i) Now, the general note for explaining the term "printed" is relied upon by the Revenue for suggesting that "printed" does not include coloration or decorative or repetitive-design printing. There is a fallacy in relying on one sentence occurring under the general note as regards the term "printed", because the test of classification under chapter 49 of the Tariff is that the printing could not be merely incidental or ancillary to the use of the product, but the essential nature and use of the product should be determined by the fact of they being printed with motifs, characters or pictorial representations. The rotogravure printing of decorative designs, colours and motifs and characters by us on base paper is not in the nature of "coloration" or "decorative" or "repetitive-design printing". The printing undertaken by us admittedly provides a distinct character and use to the base paper, and such distinct character and use as "surface paper" was not possessed by base paper earlier. After rotogravure printing by us, the base paper gets transformed into a different product having different name, characteristics and use; which is an admitted fact of this case. Therefore, printing of decorative designs etc. in accordance with the orders of the clients is not mere coloration or decorative or repetitive-design printing. The printing of decorative designs on base paper by us is a process which brings into existence a totally new product with distinctive



name to the product, distinctive use of the product and distinctive characteristic to the original base paper. When the Revenue has also stated in para 8.2 of the show cause notice that 'the end use change as a result of decorative printing process undertaken by M/s. MGPL', there could be no dispute on the proposition that printing by us (i.e. M/s. MGPL) is not merely incidental to the use of the product.

- (ii) There is another fallacy on part of the Revenue in relying on the last sentence of one para in general Note of Chapter 49 of HSN. When the entire paragraph of the Note is considered, it becomes clear that the goods in question are "printed" products.

Firstly, there is no dispute about the fact that we have actually undertaken printing of various designs, decorations etc. on uncoated printing paper. Secondly, there is also no dispute about the fact that printing is undertaken by us by rotogravure printing machines and technology. While explaining the term "printed" in this particular para of the general note of chapter 49 of HSN, mechanical printing is specifically referred to; and therefore there could be no doubt about the fact that the products obtained by letterpress, offset printing, lithography, photogravure, etc. are "printed" products. The purpose of the Note relied upon by the Revenue in this case is to explain that not only conventional mechanical printing was included in chapter 49, but various other methods of printing were also covered in the chapter. While referring to such other methods of printing like reproduction by duplicating machines, production under control of an automatic data processing machine, embossing, photography etc., it is clarified that the term "printed" does not include coloration or decorative or repetitive design printing. This exclusion is not for the conventional mechanical printing, but this exclusion is only as regards the other methods like reproduction by duplicating machines, photography, embossing etc.

In any case, there is no dispute on the fact that what we have undertaken on job work basis for the clients on base paper supplied by them is "printing", and therefore the resultant product is "printed" goods. There is a clear fallacy and misconception on part of the Revenue in relying on the last sentence of one whole paragraph of a general Note that explains the term "printed" because the purpose of the note is to include not only conventional mechanical printing but also other methods of printing which are normally not considered as "printing" in common parlance. Only because the processes undertaken by us are printing of decorative designs and decorations, such printing cannot be excluded from chapter 49 of the Tariff. Such an attempt by the Revenue is not agreed to or countenanced by the Appellate Tribunal and also the Hon'ble Apex Court as could be seen from the above referred case law, the most appropriate of them being the judgement of the Hon'ble Supreme Court in case of Commissioner V /s. Gopsons Papers Ltd. (supra).

(iii) Cases of Merely Incidental Printing:

In addition to note No.12 of Chapter 48 of the Central Excise Tariff as well as HSN, the general note under Chapter 49 of HSN also refers to cases where the printing is merely incidental to the primary use of the goods. While giving examples of printed wrapping paper and printed stationery under general note under chapter 49 of HSN, it is clarified that printed textile articles such as scarves or handkerchief, in which the printing is mainly decorative or novelty purpose and does not affect the essential character of the goods and embroidery fabrics and prepared tapestry canvases bearing printed designs fall under Textiles Section. These examples also show as to how the test of printing merely being incidental to the primary use of the goods is to be applied.

A scarf is basically used for wrapping around the neck or shoulders, and a handkerchief is used for wiping face or body parts; and therefore the primary use



of scarves and handkerchiefs would not undergo any change whatsoever even if the goods were printed or not printed. Tapestry is a product for covering chairs, sofas and such furniture items; and therefore also the primary use of the tapestry would not undergo any change even if they were printed or not printed. It is in this context that the term "printed" explained under Chapter 49 of HSN shall be construed.

When it is stated under general note of Chapter 49 of HSN that the term "printed" does not include coloration, decorative or repetitive design printing; what is meant is that if the primary use or purpose of the goods did not undergo any change even after coloration, decorative or repetitive design printing, then such goods were not to be considered to be "printed" goods. An example of printed wrapping paper and printed stationery is also given under these general notes of HSN, signifying that product in the nature of wrapping paper is used for wrapping irrespective of the fact that it was printed or not; and the same way a scarf or a handkerchief or tapestry are used for the purpose of wrapping around the neck or shoulders, for wiping face and body parts and for furniture items respectively even though they were printed or otherwise. A singular sentence from detailed general notes under chapter 49 of HSN is highlighted by the Revenue in the present case because expressions like "coloration, decorative or repetitive design printing" are used; but coloration, decorative or repetitive design printing are not to be considered to be "printed" only when there was no change in the use and purpose of the goods after coloration, decorative or repetitive design printing. If the primary use of the goods was possible only after decorative printing or coloration and the like, then printing is not merely incidental to the primary use of the goods, and consequently such goods have to be considered to be "printed" as explained under HSN.

#### Our Submission:

This basic difference between ordinary coloration, decorative or repetitive design printing on one hand and printing being essential to the primary use of the goods is not considered by the Revenue in the present case. We emphasise that decorative printing on base paper by employing rotogravure printing converts base paper into "surface paper" for consumer products like decorative laminates, particle boards, MDF boards etc.; and therefore printing is not merely incidental to the primary use of uncoated printed paper in the present case. The printed goods therefore fall under chapter 49 of the Tariff.

#### 17.7. Printing merely incidental in the present case?

By virtue of Note No.12 of Chapter 48 of the Tariff, the Parliament has laid down that paper printed with motifs, characters or pictorial representations, which are not merely incidental to the primary use of the goods, fall in chapter 49. Under Explanatory Note No.12 of Chapter 48 of HSN also, the same test is provided for classifying the goods in Chapter 49 if the printing on the goods was not merely incidental to the primary use of such goods. Therefore, the real test to be applied in this case is whether decorative printing on base paper was merely incidental to primary use of the goods, or the primary goods of the goods, namely, surface paper depended on the fact of the goods being printed.

In this regard, it is noteworthy that base paper i.e. uncoated printing paper without any printing, is not usable for production of final goods like decorative laminates, particle boards, MDF boards etc. Base paper i.e. uncoated printing paper without any printing, is actually not used also by the manufacturers of the above consumer goods like decorative laminates, particle boards, MDF boards etc. There are several technical difficulties for which base paper cannot be used for manufacture of the above referred final products.

If uncoated printing paper is used for manufacture of goods like decorative

laminates, particle boards, MDF boards etc., then the surface of the final goods becomes patchy, and spots on the surface of the laminates, particle boards etc. would emerge. The surface of uncoated printing paper i.e. base paper is smooth and therefore its use as a top layer of decorative laminates, particle boards, MDF boards etc. is not possible. Uncoated printing paper ordinarily possess profile basis weight as low as 40/ 45 gsm and such low weight as well as smooth surface finish of such base paper render it incapable of being used for production of laminates, particle boards, MDF boards etc. without traditional rotogravure printing or digital printing. This is because after such printing the graphic patten of the paper is clear, and stereo sense also becomes strong; and such printed paper with high opacity and printed surface gives such paper a quality for which no patchy surface or spots on the surface of decorative laminates, particle board, MDF boards etc. emerge.

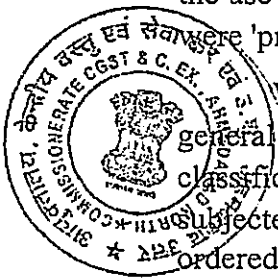
In fact, the parameters, quality and use of uncoated printing paper and decorative printed surface paper are quite different, and this fact is confirmed and certified by various manufacturers of both types of papers. We enclose as Annexure-"II" a few letters from paper manufacturers of China and also the manufacturers of decorative laminates in India in this regard.

Thus, decorative printing on base paper is not merely incidental to the primary use of base paper, but such printing changes the identity, quality and use of base paper altogether. An ordinary uncoated printed paper becomes "surface paper" for being used as a top layer of consumer products like laminates, particle boards, MDF boards. Printing is thus not merely incidental to the primary use of the goods in the present case, and therefore such printed decorative paper fall in chapter 49 by virtue of note No.12 of Chapter 48 of the Tariff and also similar clarification made under HSN.

#### 17.8. Scope of Heading 4811:

Heading 4811 of the Tariff inter alia covers "Paper.....surface decorated or printed, ..... ", but the product in question is not a surface decorated paper or printed paper for meriting classification under this heading. Surface decorated paper or printed paper would merit classification under Heading 4811 only if printing was merely incidental to the primary use of paper. It is explained under HSN that paper and paper board for the manufacture of packaging of beverages and other food stuffs, printed with texts and illustrations referring to the goods to be packaged therein are classified under heading 4811; and it is also clarified that paper, paper board etc. coloured on the surface with a single colour or with different colours, including surface marbled and design printed paper, and those printed with motifs, characters or pictorial representations merely incidental to their primary use and not constituting printed matter of chapter 49 were covered under heading 48.11. These explanations show that paper, paper board etc. which are used for a particular purpose if they were not decorated or printed, and even if their surface was decorated or printed, would be classified under heading 48.11 inasmuch as printing was, in such cases, merely incidental to their primary use. But when printing was not incidental to their primary use, but printing was the essential nature of the goods and the use of the goods was determined by the fact of they being printed, then such products were 'products of printing industry' classifiable under Chapter 49 of the Tariff.

We therefore submit that one sentence picked by the Revenue from elaborate general notes of chapter 49 of HSN is immaterial, and inapplicable for determining the classification of the goods in question. The inputs, namely, base paper are admittedly subjected to rotogravure printing by us, and the printing is that of designs and decorations ordered by the clients; and therefore the goods are in the nature of printed products, which is also an admitted fact. Therefore, the suggestion that the goods were not "printed" is fallacious and without any justification. A singular sentence picked up by the Revenue from general note of chapter 49 of HSN would not determine the classification of the goods, which are printed and decorated surface paper used for a distinctive purpose, namely,



"surface paper" for the top layer of decorative laminates, particle boards, MDF boards etc. The proposal to classify the goods produced by us under heading 48.11 of the Tariff therefore does not hold any water.

### 17.9. Admissibility of Cenvat Credit

The details of persons/entities for whom job work was conducted by us are compiled at Annexures-A-1 and B-1 to the show cause notice. The duty demand for these parties has made on the basis that they manufactured final products which were exempt from payment of Excise Duty and therefore job work exemption of notification No.214/86-Central Excise was not admissible. But base paper used by us for producing decorative surface paper on job work for these parties was undoubtedly duty paid. Therefore, if any Excise duty is held as payable on surface paper produced by us on job work, then credit of duty paid on the base paper supplied by such parties shall be admissible to us.

- (I) It is held by the Hon' ble Bombay High Court in case of Kirloskar Brothers Ltd. reported in 1988 (34) ELT 30 that credit of duty paid on materials used for manufacture of excisable goods cannot be denied only because the manufacturer had not taken such credit when the materials were actually used and the procedure for taking such credit was not followed by the manufacturer, and if it can be established with support of documentary evidence that duty paid materials were actually used for manufacture of final products then credit has to be allowed even though the procedure was not followed by the manufacturer. The Hon'ble Tribunal has also followed the same principle in various cases like Apex Steels (P) Ltd. 1995 (80) ELT 368, M/s. Roche Products Ltd. reported in 1995 (78) ELT 127, M/s. Fedders Lloyd Corporation Ltd. reported in 2001 (135) ELT 1331, M/s. Bakelite Hylan Ltd. reported in 1990 (48) ELT 90 etc., and the Hon'ble Supreme Court has also upheld this principle in cases like Formica India Ltd. reported in 1995 (77) ELT 511 (SC).
- (II) In the present case also, we have not availed Cenvat Credit of duties paid on base paper because we have been under a bonafide belief that surface paper produced by us on job work was not chargeable to Excise Duty since such goods fall in Chapter 49 of the Tariff. But if Excise Duty is demanded for such surface paper and such duty is to be paid by us, then credit of duties pay on the inputs viz. base paper may be made available to us in the interest of justice.

The parties referred to in Annexures-A1 and B1 to the show cause notice are principal manufactures who have procured duty paid base paper (Uncoated Printing Paper) and supplied to us for converting it into surface paper for using the same in relation to manufacture of final products like laminated board, chargeable board etc, and Therefore the documents evidencing payment of duties on such inputs i.e. uncoated printing paper are in the name and address of such principal manufacturers. Such duty paid inputs are used by us in relation to production of surface paper, and therefore a statement showing the link and correlation between the documents (like Central Excise invoice or Bill of Entry) for the inputs and use of such inputs in production of surface paper with corresponding challan number etc is annexed as Annexure-III to this reply. If necessary, the above details can be certified by a qualified chartered accountant also. But the duty paid inputs having been used in relation to production of surface paper, the duties shown in the statement are admissible as credit to us if excise duty is payable on surface paper by us. We therefore request you to allow and adjust such Cenvat credit if any duty demand is confirmed against us in this case.

Moreover, we have also procured on payment of duties various inputs like colors, chemicals, ink, extender etc. and also capital goods like printing machinery, design cylinders, parts and components of the machinery etc. which are used in relation to production of surface paper. A statement of such inputs/consumables and duties paid thereon is enclosed and marked as Annexure-"III", and it is clear therefrom that a total sum

of Rs.1,77,07,075/- is also admissible as Cenvat credit to us because such amount was paid as duties on the inputs, consumables and capital goods procured by us on our own for being utilized in relation to production of surface paper.

We therefore, request you to allow the above referred Cenvat credit also, in case, duty of excise was demanded from us on surface paper produced by us upon using concerned duty paid inputs.

#### 17.10. Time Bar

The show cause notice is issued on 28/04/2017 and the period covered thereon is from F.Y. 2012-2013 to F.Y. 2016-2017. For invoking larger period of limitation, it is alleged at Para 11.1 of the show cause notice that we had knowingly mis- classified the product, and in spite of the knowing that the product was liable for payment of Central Excise Duty, we had not taken Central Excise registration nor did we pay any duty payable thereon. It is also alleged that before initiation of inquiry, we had never informed the Department regarding the product and their classification.

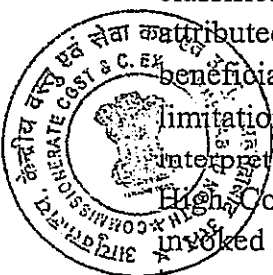
But there is no evidence on record showing that we had "knowingly" misclassified the product .There is also no evidence on record suggesting that in spite of knowing that the aforesaid product was liable for payment of duty, we did not pay duty thereon.

Statements of our Director have been recorded by investigation officer, but it is no where stated in any of the statements that we knew or that we had knowledge that the products viz. printed decorative surface papers were classifiable under heading No. 48119099, and in spite of such knowledge we classified the product under heading No. 49119990 of the Tariff. On the contrary, our Director has informed the officer during the inquiry and recording of statements that we held an impression and view that the goods produced by us on job work were products of Printing Industry, and that they were chargeable to nil rate of duty. We submit that there is no basis nor any justification in alleging in the show cause notice that we "knowingly" misclassified the product, or "inspite of knowing that the product was liable for payment of Central Duty" we did not pay duty thereon. In fact, there is no "mis-classification" also in this case, because we have been carrying a genuine and bonafide impression that the goods in question viz. decorative surface paper are products of Printing Industry, and therefore we have not applied for Central Excise Registration in past since products of Printing Industry are chargeable to nil rate of duty.

In this view of the matter, we submit that there is no mis- classification by us, and there is no deliberate wrong declaration about the nature of the products in question. If there was any wrong declaration about the classification of the goods on our part, then it was flowing from a genuine and bonafide impression about the goods being products of Printing Industry. The reasons for which larger period of limitation is invoked are invalid and unjustified, and therefore the action of invoking larger period of limitation is illegal and authorized.

#### 17.11. Dispute of Classification:

The Revenue's case is that the product in question merit classification under chapter 48, whereas our case is that they fall under chapter 49 of the Tariff. A dispute about classification of the goods is a dispute of interpretation, and therefore no malafide can be attributed to a manufacturer only because he claimed, a particular classification which was beneficial to him. Claiming a wrong classification is not a case where larger period of limitation can be invoked because, as aforesaid, classification is a question of interpretation. In a case of Shahnaz Aurvdiacs- 2004(173)ELT 337, the Hon'ble Allahabad High Court has held that extended period of limitation for payment of duty cannot be invoked in a case of classification of a product. The Hon'ble Supreme Court has also held in case of Commissioner Versus Ishaan Research Lab Ltd- 2008 (179) ELT 211 that Revenue cannot demand duty for extended period in a case involving dispute of classification. In various cases like Haryana Roadways Engineering Pvt. Ltd.- 2001(131)





ELT 662 and Wipro Ltd.- 2005(179) ELT 211, the Appellant Tribunal has also set aside duty demand for larger period of limitation when the case involved a dispute of classification of the goods. The same principle will apply in our case also, and the extended period for demand invoked against us therefore, deserves to be withdrawn.

We emphasize that there is no malafide, on our part in not paying Central Excise Duty on goods in question. We have not paid duty thereon because we genuinely carry an impression that surface paper produced by us was a product of Printing Industry, chargeable to nil rate of duty. We have carried this impression in view of cases and decisions of the Appellant Tribunal and the Courts of Low in regard to the various articles of paper on which printing was undertaken, and it is held in such cases which are referred to in Para 4 (II) of this reply, that they were products of Printing Industry. Even if the impression held by an assessee was found to be incorrect in investigation or adjudication proceedings, the fact of a wrong impression carried by the assessee is not in itself a justifiable reason for invoking large period of limitation against the assessee. Therefore, the demand of Excise Duty from FY.2012-2013 is barred by limitation in the circumstances of this case.

The law about invocation of extended period of limitation is well settled. Only in a case where the assessee knew that certain information was required to be disclosed and yet the assessee deliberately did not disclose such information, the case would be that of suppression of facts. When the Excise Officers called for certain information and the assessee did not disclose the same or deliberately disclosed wrong information that would be a case of willful mis-statement. Even in cases where certain information was not disclosed as the assessee was under a bonafide impression that it was not duty bound to disclose such information, it would not be a case of suppression of facts as held by the Hon'ble Supreme Court in the landmark cases of Padmini Products and Chemphar Drugs & Liniments reported in 1989 (43) ELT 195 (SC) and 1989 (40) ELT 276 (SC) respectively.

What is "suppression" is once again considered by the Hon'ble Supreme Court in the case of Continental Foundation Jt. Venture V/s CCE, Chandigarh reported in 2007 (216) ELT 177 (SC), and it is held by the Hon'ble Supreme Court with regard to the proviso to Section 11 A of the Central Excise Act, 1944, that mere omission to give correct information was not suppression of facts unless it was deliberate and to stop the payment of duty. In the previous case like Messrs Jaiprakash Industries Ltd. reported in 2002 (146) ELT 481 (SC) also, the Hon'ble Supreme Court has held that a bonafide doubt as to non-dutiability of goods was sufficient for the assessee to challenge the demand on the point of limitation. Thus, it is a totally settled legal position that extended period of limitation by invoking proviso to the main Section for demanding duty or tax beyond the normal period of limitation would be justified only when the assessee knew about the duty/tax liability and still however, he did not pay the duty /tax and deliberately avoided such payment, and it was only in such a situation where suppression of facts on part of the assessee could be justifiably alleged by the Revenue. However, mere failure in giving correct information would not be a case where the Revenue can invoke extended period of limitation.

In fact, the present one is a case where all the facts discussed in the show cause notice issued to us were within the knowledge of the Department right from day one. Under these circumstances, the show cause notice issued to us was barred by limitation and there was no justification in the action of invoking extended period of limitation against us in these facts of the case. There being no contravention by way of suppression of facts with intent to evade payment duty on our part, the invocation of extended period of limitation against us is illegal and unjustified in the facts of this case.

#### 17.12. Penalty

There is a proposal to impose penalty on our Company and also on Director Shri Anandkumar Agarwal section 11 AC of the Central Act read with 25 of Rules is Invoked against the Company, whereas rule 26 of the Rules is Invoked against the Director.

In para 13.2 of the show cause notice, it is suggested that we defrauded the Revenue, and we short paid the duty by reason of fraud, collusion or willful mis-statement or suppression of facts or contravention of the provisions of the Act or Rules made there under with malafide intention to evade payment of Central Excise duty. For such alleged mis-statement and contravention of provisions, penalty under Section 11 AC of the Act read with rule 25 of the Rules is proposed against the Company. But fraud, collusion, willful mis-statement, suppression of facts and contravention of provisions of the Rules made under the Act, and malafide intention to evade payment of Central Excise duty are and different situation and it is not clearly spelt out in the show cause notice as to which of the above ill intentions the Company was guilty of Penalty cannot be imposed on a mere assumption or presumption about the guilty mind of an assessee, nor any hear-say evidence. In the present case, it is not shown which of the situation the Company was guilty of and therefore, no penalty would be justified on the Company in this case.

No duty of Excise was paid by the Company because of a genuine impression carried by us that the goods produced on job work were products of Printing Industry, which did not attract Excise Duty. Therefore, merely because duty was not paid by the Company, penalty cannot be imposed in law, nor in facts.

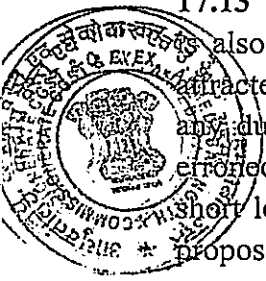
The proposal for imposing penalty on our Company under Section 11AC of the Act and Rule 25(1) of the Central Excise Rules, 2002 is even otherwise illegal and unjustified. The matter of penalty is governed by the principles as laid down by the Hon' ble Supreme Court in the land mark case of Messrs Hindustan Steel Limited, reported in 1978 ELT (J159) wherein the Hon' ble Supreme Court has held that penalty should not be imposed merely because it was lawful to do so. The Apex Court has further held that only in cases where it was proved that the assessee was guilty of conduct contumacious or dishonest and the error committed by the assessee was not bonafide but was with a knowledge that the assessee was required to act otherwise, penalty might be imposed. It is held by the Hon' ble Supreme Court that in other cases where there were only irregularities or contravention flowing from a bonafide belief, even a token penalty would not be justified

In view of the facts of this case, we submit that the proposal to impose penalty on the Company is unjustified and therefore, such proposal may be withdrawn in the interest of justice.

The proposal of penalty on the Director of the Company also deserves to be withdrawn because the Director is also not guilty of any omission or commission justifying any penalty on him. For the Director, It is suggested at Para 13.3 of the show cause notice that he acquired possession of, or was in any way concerned in manufacturing, transporting, removing, disposing, keeping, or in any other manner dealing with any excisable goods which he had knowledge or had reason to believe were liable to confiscation under the Act or Rules. Now, In case of Director also, it is not shown as to which of the above activities he was concerned with, and how the Director had knowledge or reason to believe that goods were liable to confecton, and still he dealt with such goods.

Therefore, proposal to impose penalty on the Director is not valid nor justified in this case. Even otherwise, the Director is not guilty of any deliberate evasion of duty and therefore also, the proposal to impose penalty on him does not hold any water.

17.13 The proposal to charge interest under Section 11 AA of the Central Excise Act, 1944 also without any authority in law inasmuch as the provision of section 11 AA is not attracted in the instant case. Section 11 AA provides for interest in addition to duty where any duty of excise has not been levied or paid or has been short levied or short paid or erroneously refunded with an intent to evade payment duty. In the instant case, there is no short levy or short payment or on-levy or non-payment of any excise duty. Therefore, the proposal to charge interest under Section 11 AA of the Act is also not maintainable in the present case.



#### 17.14 Deposit of Rs.50,00,000/- .

An amount of Rs.50 lakhs has been deposited by us during investigation, and therefore this amount is proposed to be appropriated against the duty demand made in this show cause notice. But this proposal also deserves to be withdrawn with consequential relief of returning this deposit to us because there is no justifiable demand of duty against us in this case. This deposit of Rs.50 lakhs may also not be taken as an evidence against us about the duty liability because this amount was deposited by us to show our bonafide, and also because of pressure during investigation.

In this regard, we may invite your attention to a judgment of the Hon' ble Gujarat High Court in case of Parle International Ltd. reported in 2001(127) ELT 329 wherein the Hon' ble High Court has held that there were various circumstances under which an assessee might deposit disputed amounts during investigation like pressure of the Department, to avoid possible interest liability or to show bonafide etc; but any amount deposited during investigation was only a deposit and no payment of duties by the assessee. It is also held by the Hon'ble Court that the deposit so made would partake character of duty only when the duties liable was determined against the assessee by following the due process of law.

Even the Appellate Tribunal has considered in case of Shakti Chemical Industries 1995 (76) ELT 140 that the fact that an assessee deposited the duty payable during the investigation would automatically not mean that there was short payment or removal of goods without appropriate payment of duty, because depositing any amount by the assessee towards duty payable was itself not a factor showing any real short payment of duty or showing admission of an assessee. In the present case also, we have deposited the amount in question only to show our bonafide because we have been a law abiding assessee and we have never intended to contravene provisions of any of the laws for the time being in force including the provisions of the Central Excise Act and the Rules framed thereunder.

Thus, the amount of Rs. 50 lakhs is only "deposit" made by us with the Revenue for showing our bonafide, and therefore this amount may be treated only as a deposit and not as "payment" of duties, nor is this deposit to be treated as any admission of short payment of duty or suppression of facts with intention to evade duty.

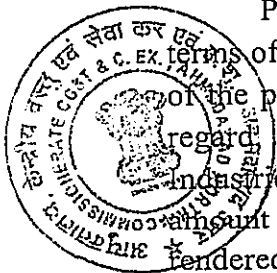
17.15 In the above premises, we submit that all the proposals leveled in the show cause notice are unjustified and unsustainable in facts as well as in law. We therefore request you to withdraw all the proposals leveled in the show cause notice by dropping this proceedings. However, an opportunity of personal hearing may be allowed to us before passing any final order on this show cause notice."

18. **Vide additional submission dated 12.03.2020, they further submitted that –**

"We, M/s. Match Graphics Private Limited, have received the Show Cause Notice F.No. DGCEI/AZU/36-34/2017-18, dated 28-04-2017 and we have filed the written original submission, dated 23-08-2017. We hereby wish to submit the additional submission in the matter cited in Show Cause Notice issued.

#### 18.1 Mere Printing does not amount to manufacture

Printing undertaken on the paper does not amount to a process of manufacture in terms of Section 2(f). It is easily seen that no distinct, identifiable commodity emerges out of the process of printing undertaken by the noticees. The product remain same. In this regard, it is submitted that the West Regional Bench in the case of CCE v. Supreme Industries Ltd. (supra) has held that process of printing on plain plastic film does not amount to a process of manufacture. They have followed the ratio of the judgment rendered in the case of 1986 (23) E.L.T. 217 and that of Apex Court's judgment rendered in UOI v. J.G. Glass Industries Ltd. (supra). The Apex Court in the case of CCE v. Paper Products Ltd., 2000 (115) E.L.T. 277 (S.C.) has held that printing of name on the film which is then utilized for the purpose of packaging does not amount to a process of



manufacture.

**18.2 Duty has to be demanded from principal and duty can not be demanded from jobworker.**

It is submitted that noticee have not violated any procedure and being a job worker,- they received the inputs, processed and after conversion, the finished goods were returned to the principal manufacturers under valid invoice-cum- delivery challan. Both receipt of the raw material and clearance of the goods were accompanied by valid documents. It is submitted copies of both supplier's invoice and delivery challans. In the said invoices, it is clearly mentioned that the goods were sent for conversion under Rule 4(5) of CCR, Notices have returned the entire goods after conversion to the respective supplier/manufacturer. Since they are being a job worker they have not required to pay Excise duty as duty is to be discharged by the principal manufacturer on their final products. In this regards, reliance is placed upon decision in case of OPG Metals Pvt. Ltd Vs CCE 2016 (343) ELT 230 (Tri-Chennai).

Further the Board's Circular dated 20-3-1997 categorically clarified that as per provisions of Rule 4(5) (a), the manufacturer can get the job work done on the input~ in terms of provisions of Rule 57F(4) of CCR. In this context, the duty liability is required to be discharged by the principal manufacturer and not by the job worker. In the present case, no input credit has been availed by the job worker. Revenue contended that Rule 4(5) (a) of CCR is not applicable on the ground that principal supplier has not availed credit. In the present case, the scrap was directly sent from the port of import to the job worker and the principal supplier has availed credit immediately on receipt of MS ingots and billets from the job worker. There is no restriction on the manufacturer to send raw material directly from the place of import to the job work premises. Therefore, we hold that there is no dispute on the receipt of scrap and clearance of MS ingots/billets to the principal supplier, the question of demanding duty on the job work does not arise. In view of the foregoing discussions, we are of the considered view that demand of excise duty from the job worker i.e. noticee is not sustainable both on limitation and on merits.

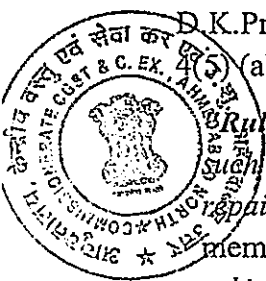
• 2008 (225)E.L.T. 282 (Tri. - Bang.)

**SUVIKRAM PLASTEX (P) LTD. Vs COMMISSIONER OF C. EX., BANGALORE-III**

Demand - Job work, duty liability - Goods manufactured by noticee on job work basis from raw material received from principal manufacturer. and cleared back such manufactured goods to principal manufacturer or to other buyers as per their instructions - Noticee has not availed any Cenvat/Modvat credit in respect of duty paid on raw material - - Principal manufacturer, not the noticee, liable to discharge duty liability in respect of such goods irrespective of facts whether they availed or not the benefit of Notification No.83/94-CE - Demand raised against noticee - Section 11A of Central Excise Act, 1944. (Paras 5.3, 5.4, 5.7, 5.8).

Further, reliance is also placed upon Board's Circular No. 306/22/97-Cx, dated 20-3-1997 based on which the judgment which was relied upon by CESTAT in the case of M.Tex & D.K. Processors Pvt. Ltd V. CCE - 2001(136) ELT 73 (T) to arrive at finding that in terms of provisions of Rule 57F(4) of the erstwhile Central Excise Rules, the job worker was not required to pay duty even if the job work amounted to manufacture and that judgment was upheld by the Supreme Court in the case of Commissioner V M.Tex & D.K.Processors Pvt. Ltd - 2002 (146) ELT A 309 (SC). In this regard, we submit that Rule 4(5)(a) states as under:

**Rule-4(5)(a) - The CENVAT credit shall be allowed even if any inputs or capital goods as such or after being partially processed are sent to a job worker for further processing, testing, repair, reconditioning or any other purpose, and it is established from the records, challans or memos or any other document produced by the manufacturer or provider of output service asking the CENVAT credit that the goods are received back in the factory within one hundred and eighty days of their being sent to a job worker and if the inputs or the capital goods are**



not received back within one hundred eighty days, the manufacturer or provider of output service shall pay an amount equivalent to the CENVAT credit attributable to the inputs or capital goods by debiting the CENVAT credit or otherwise, but the manufacturer or provider of output service can take the CENVAT credit again when the inputs or capital goods are received back in his factory or in the premises of the provider of output service."

As it will be convenient for the sake of further discussion, we also reproduce the Provision of Rule 57F(4) of the erstwhile Central Excise Rules.

**Rule-57F(4)** - The inputs can also be removed as such or after they have been partially processed by the manufacturer of the final products to a place outside his factory under the cover of a challan specified in this behalf by the Central Board of Excise and Customs, for the purposes of test, repair, refining, re-conditioning or carrying out any other operation necessary for the manufacture of final products or for manufacture of intermediate products necessary for the manufacture of final products and return the same to his factory within a period of sixty days or such extended period as the Assistant Commissioner of Central Excise may allow in this behalf, for

- (i) Further use in the manufacture of the final product; or
- (ii) Removing after payment of duty for home consumption; or
- (iii) Removing the same without payment of duty under bond for export.

It is noted that Board's Circular dated 20-3-1997 while clarifying the issue of availability of Modvat Credit on input used by job worker observed as under:

- Instances have come to the notice of the Board where job workers have availed the credit on inputs used for job-work done by them under the provisions of Rule 57F(4) of the Central Excise Rules, 1944.
- The provisions of Rule 57F (4), a manufacturer can get the job work done on his inputs or on partially processed inputs in terms of the provisions of Rule 57F(4) of the Central Excise Rules, 1944. In such cases duty liability is required to be discharged by the manufacturer and not by the job workers.

Accordingly job worker is not eligible to avail credit in such cases.

It is seen from the aforesaid circular that CBEC clearly opined that duty liability is not to be discharged by job worker. This Circular was relied upon vide CESTAT in the case of **M Tex. & D.K. Processors Pvt. Ltd. v. CCE (supra)** wherein it was held that the job worker was not required to pay duty even if the job work undertaken amounted to manufacture. We also notice that this judgment was upheld by Supreme Court in the case of **Commissioner Vs M.Text. & D.K. Processors Pvt. Ltd.**

It is thus, submitted that as far as the duty liability of a job worker in terms of Rule 57F(4) of Central Excise Rules, 1944 is concerned, it is settled upto the level of Supreme Court that the job worker was not required to pay duty. We have reproduced above the provisions of Rule 57F(4) of Central Excise Rules, 1944 and the Provisions of Rule 4(5)(a) of the Cenvat Credit Rules, 2004 and have carefully perused the same. The language in both these Rules gives no scope to infer that if the job worker was not required to pay duty in terms of Rule 57F(4) it could be required to pay duty in terms of Rule 4(5)(a) because the conditions of Rule 57F(4) of Central Excise Rules, 1944 were stringent compared to the conditions of Rule 4(5)(a) of the Cenvat Credit Rules in as much as Rule 57F(4) categorically required the principal manufacturer to use the goods received from the job worker for further use in the manufacture of the final product or removing after payment of duty for home consumption or removing the same without payment of duty for export while Rule 4(5)(a) does not say so expressly though it is implicit therein.

Thus, we are of the view that for the purpose of dutibility at the hands of the Job worker, the provisions of Rule 57F(4) of Central Excise Rules, 1944 are essentially pari materia the Provisions of Rule 4(5)(a) of the Cenvat Credit Rules. Indeed vide judgments in

the case *Mukesh Industries Ltd. v. CCE*, (supra) CESTAT essentially held as under:

"Duty liability - Job worker - Respondents receiving grey MMF and knitted or crocheted fabrics from principal manufacturer under the cover of challans issued under Rule 4(5)(q) of Cenvat Credit Rules, 2001 and after completion of job work the goods stand returned to the principal manufacturer - Rule 57F(3) of erstwhile Central Excise Rules, 1944 and Rule 4(5) (a) ibid being independent provisions, fact that goods were not specified in the Notification No, 214/86-C.E. will not-make a difference - No duty liability can be fastened upon the job- worker – Section 3 of Central Excise Act, 1944 (para 4)"

**18.3. Rule 8 is not applicable in the present case thus in absence of any proposed valuation rules in the SCN the demand is not sustainable**

Department relied upon rule 8 to determine the value of goods cleared by noticee and has not applied any other valuation Rule. It is submitted that Rule 8 is not applicable in the present case. Relevant part of Rule 8 is extracted and reproduced as under:

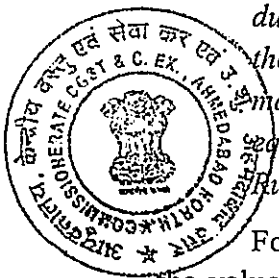
*"Rule 8 : Where the excisable goods are not sold by the assessee but are used for consumption by him or on his behalf in the production or manufacture of other articles, the value shall be one hundred and ten percent of the cost of production or manufacture of such goods"*

From the above rule it is clear that the valuation of goods manufactured on job work under Rule 8 can only be done in a case where the goods are used for captive consumption within the factory or if it is used by other company on their behalf. In the present case, the goods manufactured on job work is neither used by principal manufacturer for captive consumption whereas the same is used by other company.

The basic rule of valuation of excisable goods is the 'ad valorem' rule as laid down in clause (a) of Section 4(1) of the Act in terms of which assessable value is the transaction value of the goods where the goods are ordinarily sold for delivery at the time and place of removal, and buyer is not a related person and price is the sole consideration for the sale. 'Transaction value' has been defined in Section 4(3)(d) to mean the price actually paid or payable for the goods when sold. However, where goods are not sold and the normal price of the goods is not ascertainable, the nearest ascertainable equivalent price has to be determined in such manner as may be prescribed - as laid down in clause (b) of Section 4(1) of the Act. For dealing with cases covered by Section 4(1)(b), the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 i.e. Excise Valuation Rules have been framed. Rules 4 to 11 of the said Rules provide the formulae for arriving at the value of the goods in different situations when value cannot be determined under Section 4(1)(a), that is, where no sale is involved or sale is through a related person etc. Rule 11 is the residuary rule. As observed by the Supreme Court in *CCE, Pune v. Dai Ichi Karkaria, 1999 {112} E.L.T. 353 (S.C.)*, the underlying of an object of the rules is to arrive at a value which would be closest to the transaction value of the goods, had the goods been sold in the circumstances mentioned in Section 4(1)(a) of the Act. It would be appropriate to extract the relevant passage as under :

*"Section 4(b) deals with the valuation of excisable goods which are chargeable to, excise duty with reference to their value. The valuation is to be based ordinarily on the price thereof, that is to say, the price at which the excisable goods are ordinarily sold by the manufacturer to a buyer. It is only when the valuation cannot be so made that the closest equivalent thereof has to be determined in the manner prescribed under the Valuation Rules".*

For example, Rule 8 of the Valuation Rules contains the formula for determining the value of the goods which are not sold by the assessee, but are used for consumption either himself, or on his behalf, in the manufacture of some other goods. Such value as per Rule 8 shall be 110% of the cost of production or manufacture of such goods. The logic behind adopting 10% of the cost of production 'as deemed value' apparently is that had the goods been sold in the market, and not given for any job work, the manufacturer would



have quoted a higher price over and above the cost of production to cover his profit etc. As regards value of the goods returned by job worker to the principal, after completing the job, there being no sale involved again, the value cannot be determined under Section 4(1) (a). Rule 8 cannot be applied at that stage for the simple reason that the goods are no more to be consumed for manufacture of some other goods. They are ready-for-sale goods. Reliance is placed upon decision in case of **UNIVERSAL STARCH CHEM ALLIED LTD. vs CCE - 2017 (358) E.L.T. 279 (Tri. - Mumbai)**.

Valuation (Central Excise) - Job work - Assessee carrying out job work -- on material supplied by its group company and paying duty on valuation done following principles laid down in Ujagar Prints' case [1989 (39) E.L.T. 493 (S.C.)], i.e. cost of raw material plus job work charges including profit of job worker - Goods manufactured on job work neither used by assessee for captive consumption or used by other company not on behalf of assessee - Ingredient for application of Rule 8 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000- Valuation done by assessee correct " Section 4 .of Central Excise Act, 1944. (2014 (299) E.L.T. 249 (Tribunal) distinguished]. [para 8]

*"Rule 8 : Where the excisable goods are not sold by the assessee but are used for consumption by him or on his behalf in the production or manufacture of other articles, the value shall be one hundred and ten per cent. of the cost of production or manufacture of such goods."*

*8. From the above rule it is clear that the valuation of goods manufactured on job work under Rule 8 can only be done in a case where the goods are used for captive consumption within the factory or if it is used by other company on their behalf. In the present case, the goods manufactured on job work by the noticee is neither used by themselves for captive consumption whereas the same is used by other company i.e. M/s. Unique Sugar Mills Limited and use by M/s. Unique Sugar Mill is not on behalf of the noticee. Therefore, the ingredient of Rule 8 does not exist in the transaction of the present case. Therefore the valuation done by the noticee following the principles laid down by the Hon'ble Supreme Court in Ujagar Prints i.e. cost of raw material+ job charges including profit of the job worker is correct.*

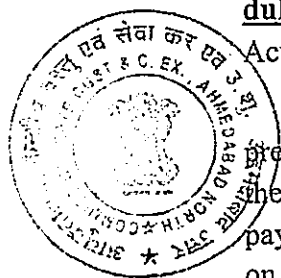
#### 18.4 Extended period is not invocable in the present case

1. With regards to extended period issue is squarely covered decision in case of **CCE s satiya and company - 2010 (262) E.L.T. 530 (Tri. - Ahmd.)** relevant part is as under:

Demand - Limitation - Extended period - Suppression - Job worker Denial of benefit of exemption under Notification No. 214/86-C.E. on ground that plastic jerry cans manufactured on job work basis were used by principal manufacturer for packing of goods exempted from duty - As already found by Commissioner (Appeals), Revenue had knowledge of facts about use of goods by principal manufacturer Otherwise also, respondents working on job work basis cannot be expected to know that goods manufactured by them were going to be used by principal manufacturer for dutiable or exempted product -No allegation of any positive act of suppression/statement on the part of respondent with an intent to evade payment of duty - Extended period not invocable - Proviso to Section 11 A(1) of Central Excise Act, 1944. [Para 4]

Further, it is also submitted that it is well settled law that the Department cannot press into service the machinery for invoking the extended period of limitation unless there is established an act of suppression or mis-declaration with an intent to evade payment of duty. In this connection, the noticees wish to place reliance on the decisions on the following decisions of this Hon'ble court:

- Cosmic Dye Chemical v. Collector of Central Excise, Bombay **1995 (75) E.L.T. 721 (S.C.)**
- Tamil Nadu Housing Board v. Collector - **1994 (74) ELI. 9 (S.C.)**
- Cadila Laboratories Pvt. Ltd. v. CCE- **2003 (152) ELI 262 (S.C.)**



(d) Pushpam Pharmaceuticals Company v. Collector of Central Excise, Bombay - 1995 (78) E.L.T 401 (S.C.)

(e) M/s. Continental Foundation Joint Venture Holding, Naphtha H.P. V. CCE, Chandigarh-I - 2007(216) E.L.T. 177 (S.C.)

Further even there is divergence of view with regards to classification under chapter 48 and 49. The same is evident that department has issued detailed circular which shows that there is different practices followed by department with regards to classification of printed papers under chapter 48 and chapter 49. The said circular is extracted as under:

**Paper and Printing Industry - Classification [Chapters 48/49]**

Circular No. 1052/1/2017-CX, dated 23-2-2017

F.No. 116/29/2015-CX.3

Government of India

Ministry of Finance (Department of Revenue)

Central Board of Excise & Customs, New Delhi

*Subject: Classification of articles of paper and printing industry - Regarding.*

Representations have been received from trade associations that consequent upon insertion of Chapter note 14 (w.e.f. 28-5-2012) to the Chapter 48 of Central Excise Tariff Act, 1985 disputes have cropped up in respect of classification of railway/bus/other tickets/passes, railway ticket rolls and bus ticket rolls, mark sheets/certificates, OMR Sheets/ Answer Books with OMR, Answer booklets, inland letter cards, passbooks, applications forms, paper outer strip seal, Railway receipt (RR) and practical notebook. Also, reports received from field formations suggest that there is divergent practice of assessment of these goods. It is therefore, proposed to clarify the classification of these goods to ensure uniformity in practice of assessment across the country.

2. In this connection, statutory provisions are as under:

(a) As per Rule 3(c) of General Rules for the interpretation of the Schedule, "when goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally-merit consideration".

(b) As per Rule 4 of General Rules for interpretation of the Schedule, "goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin".

(c) As per Chapter note 10 of Chapter 48, heading 4820 does not cover loose sheets or cards, cut to size, whether or not printed, embossed or perforated.

(d) As per Chapter note 12 of chapter 48, except for the goods of heading 4814 or 4821, paper, paperboard, cellulose wadding and articles thereof, printed with motifs, characters or pictorial representations, which are not merely incidental to the primary use of goods, fall in Chapter 49.

(e) As per Chapter note 14 (inserted on 28-5-2012) paper and paper products of heading nos. 4811, 4816 or 4820 intended to be used for further printing or writing are classifiable in their respective headings even if printing is merely incidental to the primary use of goods .

(f) HSN explanatory note (2) to heading 48.20 excludes educational workbooks, sometimes called writing books, with or without narrative texts, which contain printed textual questions or exercises not incidental to their primary use as workbooks and usually with spaces for completion in manuscript. Further, as





per HSN explanatory notes (A) to heading 4901 “.. literary works of all kinds, textbooks (including educational workbooks sometimes called writing books) with or without narrative texts which contain questions or exercises (usually with spaces for completion in manuscript); technical publications...” are classifiable under this heading.

(g) Also, as per HSN explanatory notes to heading 49.01 printed cards bearing personal greetings, messages or announcements (heading 49.09), and printed forms which-require the insertion of certain additional information for completion are excluded from this heading.

(h) As per explanatory notes to heading 4907 (F), "Stock, share or bond certificates and similar documents of title are formal documents issued, or for issue, by public or private bodies conferring ownership of, or entitlements to, certain financial interests, goods or benefits named therein. Apart from the certificates mentioned these documents include letters of credit, bills of exchange, travellers' cheques, bills of lading, title deeds and dividend coupons. They usually require completion and validation."

(i) As per explanatory note to heading 49.11, "Certain printed articles may be intended for completion in manuscript or typescript at the time of use but remain in this heading provided they are essentially printed matter. Thus, printed forms (e.g., magazine subscription forms), blank multi-coupon travel (e.g. air, rail and coach) tickets, circulars, letters, identity documents and cards and other articles printed with messages, notices, etc., requiring only the insertion of particulars (e.g. dates and names) are classified in this heading .....". The heading 4911 also includes tickets for admission to places of entertainment (e.g., cinemas, theatres and concerts), tickets for travel by public or private transport and other similar tickets.

3. Hon'ble Apex Court in the case of *Holostick India Ltd. v. Commissioner of Central Excise* [2015(318) E.L.T. 529 (S.C.)] has held that holograms would 'not fall under chapter 39 though they had the self-adhesive property and were primarily goods made of plastic, yet due to the security features of the stickers, the said holograms will be placed under chapter 49. The reason for such a classification was that the security features gave the hologram their essential feature.

4. In the light of above statutory provisions and decision of the Hon'ble Apex Court, classification of the goods *ibid* was examined and it is clarified as under:

(a) Railway/bus/other tickets/passes —

- These are loose sheets or cards, cut to size and therefore are not covered under heading 4820 and also the provision of Chapter note 14 is inapplicable in the matter. Printing is not merely incidental to the primary use these goods. Printing alone brings these goods in existence. Explanatory note to heading 49.11 specifically covers these goods. Therefore, these goods are classifiable under heading 4911.

- Similarly, railway ticket rolls, bus ticket rolls and like goods, which have cut/identifiable marks for separation of railway tickets/bus tickets therefrom and tickets are easily identifiable therein, are also classifiable under heading 49.11.

(b) Mark sheets/certificates - These are loose sheets, cut to size and therefore are not covered under heading 4820 and also provision of Chapter note 14 is inapplicable in the matter. The printing on these documents gives Their essential character and on being issued (after completion and validation) by the appropriate authority they have fiduciary value in excess of the intrinsic



value. In view of explanatory notes to heading 4907 (F) they are classifiable under heading 4907.

- (c) OMR sheets - Like mark sheets and certificates these are loose sheets cut to size and therefore are not covered under heading 4820 and also provision of Chapter note 14 is inapplicable in the matter. The printing on these documents gives their essential character. In view of explanatory note to heading 4911 they are classifiable under heading 4911.
- (d) Answer books with or without OMR, answer booklets and passbooks these are not loose sheets, cut to size and therefore these are not out of the purview of heading 4820. Printing on these goods is merely incidental and such goods are intended to be used for further printing or writing. Answer books with or without OMR and answer booklets are intended for completion in manuscript while passbooks are intended for completion in manuscript or typescript. Provisions of Chapter note 12 and 14 of Chapter 48 and provisions of Rule 4 of General Interpretative Rules are applicable in the matter and therefore these are classifiable under heading 4820.
- (e) Inland letter cards - These are loose sheets or cards, cut to size and therefore are not covered under heading 4820 and also provision of Chapter note 14 is inapplicable in the matter. These Inland letter cards are minted with all particulars and shall not undergo any further printing or writing. They contain personal information like notices, reminders, etc. Sometimes these cards require only insertion of particulars like names and addresses: In the situation, where printing on inland letter cards is no merely incidental, goods are classifiable under heading 4911. However, plain letter cards are classifiable under heading 4817, which reads as "envelopes, letter cards, plain postcards and correspondence cards, of paper or paper boards."
- (f) Application forms - These are for example bank account opening forms, forms of telecom companies, education institutions, insurance company forms and similar forms printed on specific order of the concerned bank, telephone companies, etc. These are loose sheets, cut to size and therefore are not covered under heading 4820 and also provision of Chapter note 14 is inapplicable in the matter. Printing on these forms is not merely incidental. In view of explanatory note to heading 4901 and 4911 these forms are classifiable under heading 4911.
- (g) Paper outer strip, seals - These strips are used to seal EV Ms (electronic voting machines) and are used by the election commission. For example State Election Commission, Haryana is printed on these strip seals. These are basically stickers having a self-adhesive feature where printing brings the product into existence. They have security features like guilloche patterns and anti-photocopy features. Therefore in view of printing not merely incidental and decision of Hon'ble Apex Court in the matter of Holostick India Ltd. *ibid*, these strip seals are classifiable under heading 4911.
- (h) Railway Receipts (RRs) - These are continuous computer stationery (4820) and also a document of title (4907). They have security numbering with special features like specific and patterns digit size printed by mechanical boxes using penetrating inks and also hatching of Indian Railway logo in the background. Printing on these receipts is not merely incidental. In view of Rule 3(c) of General Rule for the interpretation of the Schedule, Hon'ble Apex Court decision in the case of Holostick India Ltd. *ibid* and explanatory notes to heading 4907(F), these are classifiable under heading 4907.



- (i) Practical notebook - This notebook contains some texts, questions and spaces for exercises. In view of explanatory notes to heading 4820 and explanatory notes (A) to heading 4901, this is classifiable under heading 4901. However, practical notebook which have merely certain questions followed by blank spaces for writing are classifiable under heading 4820 only.

5. Field formations may be suitably informed. Past instructions and circulars on the subject shall stand amended to the extent of conflict with the above circular. Hindi version would follow.

**18.5. Identical matter heard and held in the matter of Commissioner of Central Excise- Ahmedabad-I versus M/s. Matchwell, having Excise Appeal No. 10404 of 2019**

We hereby bring to your notice that in identical matter the Tribunal has passed the Order No. : A/11011/2019 dated 21-06-2019 and copy of said order is enclosed in Annexure-1. In the said order Hon' ble Tribunal has held as reproduced in the below Paras of the said Order:

"8. We also find that even if there is change in tariff heading, but there is significant change in the process and the said process does not amount to manufacture, merely change of tariff heading does not make product dutiable once again. This issue has been considered in the various judgments:

S.R.Tissues P. Ltd 2005 ( 186) ELT 385 (SC)  
Variety Lumbers P. Ltd 2014 (302) ELT 519 (Guj.)  
Variety Lumbers P. ltd 2018 (360) ELT 790 (SC)  
Castings (India) Ltd 2016 (342) ELT 343 (Jhar)

The Ld. Counsel has made alternative submission that even if the process is considered to be a process which amount to manufacture, the printed base paper will merit classifiable under chapter 49, hence no duty is payable on end product. In this regard, we find that the relevant chapter note 2 of chapter 49 is reproduced below:-

"2. For the purposes of Chapter 49, the term "printed" also means reproduced by means of duplicating machine, produced under the control of an automatic data processing machine, embossed, photographed, photocopied, thermocopied or type written."

From the above chapter note, it clear that any printed paper if amount to manufacture, the same is correctly classifiable under chapter note 49 and the most appropriate Central Excise Tariff Heading shall be 49119990 which attracts Nil rate of duty. On this plea of the appellant also the demand is not sustainable.

18.6 As per our discussion, we are of the view that under facts and circumstances whether the product is classifiable under chapter 48119099 or under 49119990 appellant is not liable to pay duty. Accordingly, the impugned order is set aside. Appeal is allowed."

In line of the said order, we hereby request you to allow a Appeal, as if it amounts to manufacture then it is rightly classified under 49 and if there is no significant change in the process then said does not amount to manufacture and therefore even though it falls under 49 the said is not taxable.

**Prayer**

- In view of forgoing it is requested that the Commissioner may be pleased to:  
1. Set aside the impugned SCN NO. F. No. - DGCEI/AZU/36-34/2017- 18 Dated: 28-04-2017 and drop the demand as alleged in SCN along with interest and penalty.  
2. Grant us personal hearing.  
3. Pass such other order or orders as may be deemed fit and proper in facts and circumstances in the case".



## PERSONAL HEARING:

19. Personal hearing in this case was fixed on 18.03.2020, 30.03.2020 and 19.06.2020. Shri Abhishek Chopra, CA, attended personal hearing on 24.06.2020 through video conferencing, via his cell No.990906777 at 12 noon and reiterated their submissions made earlier in this regard. He told that he will be sending a duly signed letter/submission regarding this PH held through VC within a week.

## DISCUSSION AND FINDINGS:

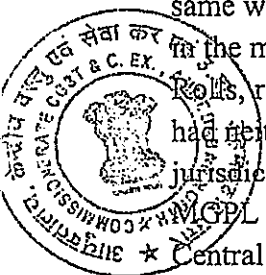
20.1 I have carefully gone through the records of the case, submissions made by M/s MGPL in their written reply to the show cause notice and during the course of personal hearing. The issue to be decided in this case is –

Whether the goods viz. Printed Decorative Paper in Rolls manufactured and cleared by M/s MGPL are classifiable under CETSH No.48119099 as proposed in the show cause notice or classified by M/s MGPL under CETSH No.49119099 or otherwise.

20.2 I find that this case was booked by the DGCEI (now DGGSTI) on the basis of information that M/s MGPL was engaged in manufacturing of Printed Decorative Paper classifiable under CETSH No.48119099 of the CETA, 1985 attracting Central Excise Duty @ 12.5%. They were manufacturing aforesaid product on job work basis for various manufacturers availing benefit of Exemption of Job-work Notification no.214/86-C.E. dated 25-03-1986, as amended. They were also doing job work for the manufactures/traders, which were not using the goods manufactured on job work basis, for manufacturing of the excisable final product; in such cases M/s MGPL was not entitled for exemption under aforesaid notification and was liable to pay Central Excise duty as determined under the provision of Rule 8 or 9 of the Central Excise (Valuation) Rules, 2000. M/s MGPL had neither taken Central Excise Registration nor paid any amount of Central Excise duty payable on their manufactured product. They have claimed that the said product was a product of printing industry and falls under CETSH No.49119990 of the Schedule to the CETA, 1985 attracting Nil rate of Central Excise duty. According to the characteristics and the product i.e. Printed Decorative Papers in rolls manufactured by M/s MGPL was rightly classifiable under CETSH No.48119099 of the Schedule to the CETA, 1985, attracting Central Excise duty @ 12.5% Adv.

20.3 It is seen that M/s MGPL was manufacturing aforesaid product (Printed Decorative Papers in rolls) on job work basis for the manufacturers registered with Central Excise Department. They are sending raw materials i.e. Base Paper in Rolls for manufacturing of the excisable goods i.e. Printed Decorative Papers in rolls on job work basis under job work challans to M/s MGPL, who after manufacturing said goods, cleared these goods without payment of Central Excise duty leviable thereon, availing the benefit of job-work Exemption Notification No. 214/86-CE dated 25-03-1986, as amended. Said manufacturers had used these goods in the manufacture of the dutiable finished excisable goods as such.

20.4 It is also noted that M/s MGPL was also manufacturing said excisable goods (Printed Decorative Papers in rolls) on job work basis for other manufacturers. They are sending raw materials i.e. Base Paper in Rolls for manufacturing of the excisable goods i.e. Printed Decorative Papers in rolls on job work basis to M/s MGPL, who after manufacturing cleared the same without payment of Central Excise duty leviable thereon. Said manufacturers were engaged in the manufacture of exempted finished goods and using the said Printed Decorative Papers in Rolls, received from M/s MGPL in the manufacture of their exempted goods. Said manufactures had neither given undertaking to the Assistant/Deputy Commissioner of Central Excise having jurisdiction of M/s MGPL nor fulfilled the conditions of the said exemption notification. M/s MGPL is, therefore, not entitled for the benefit of said exemption notification and liable to pay Central Excise duty on the excisable goods, viz. Printed Decorative Papers in Rolls, cleared to said manufacturers. The aforesaid manufactured goods viz. Printed Decorative Papers in Rolls were captively consumed by the said manufacturers. Accordingly, M/s MGPL were liable to duty on said goods on the value as determined as per the provisions of Rule 8 of the Central



Excise (Valuation) Rules, 2000.

20.5 M/s MGPL had also manufactured said excisable goods (Printed Decorative Papers in rolls) on job work basis for two trading firms viz. M/s Aman Fashion Pvt. Ltd. and M/s Natural Decor, which were run by family members of the directors of M/s MGPL. They are sending raw materials i.e. Base Paper in Rolls for manufacturing of the said goods on job work basis to M/s MGPL, who after manufacturing, cleared the same without payment of Central Excise duty leviable thereon. Said firms had sold the printed Decorative Paper in rolls to different buyers. In such cases also, M/s MGPL is not entitled for aforesaid job-work Exemption Notification and liable to pay Central Excise duty on said goods on the value as determined under the provision of Rule 9 of the Central Excise (Valuation) Rules, 2000.

20.6 M/s MGPL has been classifying the subject goods under CETSH No.49119990 and clearing it under Nil rate of duty. As per CETA, Heading 4911, the description of goods covers "Other Printed matter, including pictures and photographs" and specific heading No.49119990 description of goods mentions "others" at nil rate of duty. Further, the General Note of Chapter 49 of HSN specifically mentions that "The term does not, however, include coloration, decorative or repetitive-design printing".

Under CETSH 4811, the item description of goods mentions "Paper, Paperboard, Cellulose Wadding and Webs of Cellulose Fibres, Coated, Impregnated, Covered, Surface-Coloured, Surface-Decorated or Printed, in Rolls or Rectangular (including Square) Sheets, of any size, other than goods of the kind described in heading 4803, 4809 or 4810" and specific heading No.48119099 description of goods mentions "Other" attracting Central Excise duty @ 12.5%. In the present case, the description of the goods manufactured by M/s MGPL in fact, is different types of Printed Decorative Papers in rolls. I find that the classification proposed by the Department is more appropriate in this case considering characteristics and the use of goods, description of the goods manufactured by M/s. MGPL. Therefore, I hold that the goods are to be classified under CETSH 48119099 and the show cause notice has been rightly issued by the Department and the Central Excise duty not paid by M/s MGPL is recoverable from them along with interest and penalty.

20.7 Further, M/s MGPL was also manufacturing said excisable goods (Printed Decorative Papers in rolls) on job work basis for other manufacturers. They were sending raw materials i.e. Base Paper in Rolls for manufacturing of the excisable goods i.e. Printed Decorative Papers in rolls on job work basis to M/s MGPL, who after manufacturing cleared the same without payment of Central Excise duty leviable thereon. Said manufacturers were engaged in the manufacture of exempted finished goods and using the said Printed Decorative Papers in Rolls, received from M/s MGPL in the manufacture of their exempted goods. I find that the said manufactures had not followed the guidelines and conditions as stipulated in the job-work Exemption Notification No. 214/86- C.E. dated 25-03-1986, as amended. Therefore, they are not entitled for the benefit of exemptions Notification and are liable to pay Central Excise Duty and interest at appropriate rate on the printed Decorative Paper manufactured on job work basis and cleared to the manufacturers.

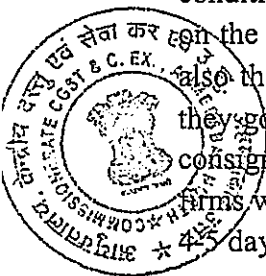
20.8 I find that MGPL had also constituted two trading firms viz.-(i) M/s. Aman Fashion P. Ltd and (ii) M/s. Natural Decor, operated by the own family members. They were sending raw materials i.e. Base Paper in Rolls for manufacturing of the said goods on job work basis to M/s MGPL, who after manufacturing cleared the same without payment of Central Excise duty leviable thereon. Said firms had sold the printed Decorative Paper in rolls to different buyers. There also, M/s MGPL is not entitled for job-work Exemption Notification No.214/96 and they are liable to pay Central Excise duty on said goods along with interest.

20.9 Further, I find that the valuation of the goods manufactured on job work basis and cleared to the manufacture, who had not consumed printed Decorative Paper in manufacturing of dutiable final product and had captively consumed the same in the manufacture of exempted final product has to be done as per the provision of Section 4 of Central Excise Act, 1944 read with Rule 8 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules,

2000. In the case of goods manufactured on job work basis and sold through their two trading firms viz. (1) M/s.Aman Fashion P.Ltd and (2) M/s.Natural Décor, which are related entities of M/s MGPL, the valuation of said goods to be done as per Section 4 of Central Excise Act, 1944 read with Rule 9 ibid. I find that the Rules were not followed by M/s MGPL and therefore, the differential Central Excise duty has to be recovered from them with interest.

20.10 Simultaneous searches were conducted at the factory premises of (i) M/s MGPL, at 497/A, 419A, 498A, Radhe Industrial Estate, Tajpur Road, Changodar, Ahmedabad and (ii) office at 11, 1<sup>st</sup> & 2<sup>nd</sup> Floor New Cloth Market, Outside Raipur Gate, Sarangpur, Ahmedabad and it was revealed that they were engaged in the manufacturing of Printed Decorative Paper in rolls on job work basis for various manufacturers/traders. It was also noticed that they had not obtained Central Excise Registration nor paid Central Excise duty on the said manufactured products. Various documents viz. purchase invoices, job work challans, sales invoices, ledger accounts etc were resumed. Subsequently, statement of Shri Anandkumar Agarwal, Director of M/s MGPL and M/s.Aman Fashion Pvt.Ltd, Partner of M/s.Natural Décor and Authorised signatory of M/s Matchwell was recorded under Section 14 of Central Excise Act, 1944 on 09.09.2016 wherein he admitted that their company was engaged in manufacturing of the excisable goods, i.e. printed decorative paper falling under CETSH No. 48119099 on job work basis for various manufacturers/traders, which was to be used in manufacturing of laminate sheets by them; that they had not taken Central Excise Registration of the said manufacturing unit; that except above M/s MGPL were also running three trading companies/firms viz-(i) M/s Aman Fashion Pvt. Ltd., Ahmedabad (A private limited company with directors, Shri Shyamsundar Ramprasad Agarwal, Shri Dineshkumar Shankarlal Agarwal, Shri Shreenarayan Shreekishan Agarwal and himself), (ii) M/s Natural Decor, Ahmedabad (A partnership firm with partners, Shri Aman Dineshkumar Agarwal, Nikhil Dineshkumar Agarwal, Nikunj Manojkumar Agarwal and himself) and (iii) M/s Keval Corporation, Ahmedabad (A proprietorship firm with proprietor, Shreekishan Agarwal, HUF), which were owned by his family members, engaged in trading of printed decorative paper; that M/s MGPL had received plain base papers from the parties, printed the desired colour / design on the same on job work basis and returned the same to the client on payment of mutually agreed amount; that major parties, to whom they dealt were M/s Natural Decor and M/s Aman Fashion Pvt. Ltd. along with other firm/companies; that M/s Natural Decor and M/s Aman Fashion Pvt. Ltd. were neither engaged in any kind of manufacturing activities, nor have any manufacturing facilities; that they were basically traders of decor papers; that they purchased the plain base papers and after got it decorative printed from M/s MGPL on job work basis, sold the same to different manufactures; that M/s Natural Decor and M/s Aman Fashion Pvt. Ltd. were purely engaged in trading activities and no manufacturing activities had been carried out by them and, hence, they were not liable to pay Central Excise Duty; that M/s MGPL was neither registered with Central Excise Department nor paid any Central Excise duty, as M/s MGPL did only job work and did not carry out any manufacturing activities other than that; that the manufacturing of printed decorative papers on job work basis was exempted from Central Excise Duty and, hence, they were not paying Central Excise Duty; that M/s Natural Décor and M/s Aman Fashion Pvt. Ltd. were engaged in purely trading activities; that as such they had not fulfilled the conditions of job-work exemption Notification no.214/86-C.E. dated 25-03-1986 and, therefore, they were not entitled for any exemption for job work done for their above two trading firms; that their other clients were complying with the conditions of said notifications, he agreed that M/s MGPL was liable to pay Central Excise Duty on the goods manufactured on job work basis for their aforesaid two trading firms, which were also their related parties; that M/s Natural Decor had started business in the year 2015-16 and they got manufactured decorative printed papers on job work basis only from M/s MGPL; that consignment wise details of goods got manufactured on job work basis by their said 2 trading firms were not readily available with them and they would work out the same and submit within 45 days along with assessable value thereof and Central Excise Duty payable thereof.

21. During the course of a further statement recorded on 08.12.2016, Shri Anandkumar Agarwal Director of M/s MGPL, stated that M/s MGPL was engaged in printing of Decorative



Paper in Rolls form on job work basis for various manufacturers/traders; that for printing of the Decorative Paper, they received 'Uncoated Printing Paper' i.e. 'Base Paper in Rolls' from their various clients and as per requirement of the clients, they manufactured "Printed Decorative Paper in Rolls Form" of various types of designs and colour combination as per order of the clients and send back the excisable goods i.e. "Printed Decorative Paper in Rolls" to the respective clients; they charged job charges from said principal manufacturers ranging Rs.1 /-per meter to 6/- per meter or Rs.22/- per kg to Rs. 70/- per kg; that "Printed Decorative Paper" was used in manufacturing of High pressure Laminated Sheets, Particle Boards, MDF Boards as decorative surface of the product; that decorative printing carried out by their unit M/s MGPL, was a particular form of rotogravure printing; that Rotogravure printing was a continuous printing process, in which base paper in roll form was used and after printing finished goods decorative printed paper also remains in roll form; that M/s MGPL was engaged in manufacturing of decorative printing on base paper on job-work basis, which was essential to further use the product i.e. printed decorative paper in manufacturing of Decorative Laminate Sheets/ Particle Boards/ MDF Board and without printing base paper could not be used; that they were of the opinion that the product manufactured by their unit M/s MGPL, was a product of printing industry and falls under CETSH No. 49119990 attracting NIL rate of Central Excise Duty, therefore they had neither obtained any Central Excise Registration nor paid any Central Excise Duty on the same before initiation of the present enquiry by DGCEI (i.e. 09-09-2016); that he has gone through the Chapter Heading 4811 of the Central Excise Tariff, Act 1985.

22. In view of the above discussion, the following points have emerged-

- (i) M/s. MGPL had manufactured and cleared different types of printed Decorative Paper in rolls.
- (ii) The decorative printing carried out by M/s MGPL, was a particular form of rotogravure printing. Rotogravure printing was a continuous printing process, in which base paper in roll form was used and after printing, finished goods i.e. Printed Decorative Paper also remains in roll form. The Printed Decorative Paper manufactured by M/s MGPL was used for manufacturing of High pressure decorative Laminated Sheets, Particle Boards, MDF Boards as decorative surface of the product.
- (iii) After decorative printing, end use is now confirmed to particular and specific use for manufacturing of High pressure decorative Laminated Sheets, Particle Boards, MDF Boards etc. The end use changed as a result of decorative printing process undertaken by M/s MGPL. The process of aforesaid particular kind of printing has resulted in a new commercial product, different from the one with which the process started. Thus, the resultant finished goods is an article with different name, character and use, which it did not bear earlier.
- (iv) M/s MGPL had wrongly classified the printed Decorative Paper under CETSH No. 49119990 of the schedule to the CETA, 1985. As per the aforesaid General Chapter Note of the HSN, the decorative printing does not fall under the Chapter 49 of the Central Excise Tariff Act, 1985.
- (v) The Chapter Heading 4811 of the Central Excise Tariff Act, 1985 cover PAPER SURFACE-COLOURED, SURFACE-DECORATED OR PRINTED, IN ROLLS. The product manufactured by M/s MGPL i.e. printed Decorative Paper in rolls is rightly classifiable under CETSH No. 48119099 of the schedule to the CETA, 1985 and attracts Central Excise Duty.

Further, the condition to avail exemption for job work under the Notification No. 214/86-CE dated 25-03-1986, as amended is that the principal manufacture should use the goods got manufactured on jobwork basis in the manufacturing of dutiable final product and fulfill the conditions of the said notification.

- (vii) M/s MGPL had not paid Central Excise duty on said finished excisable goods manufactured on job work basis on behalf of the manufactures as well as their



aforesaid related two trading firms.

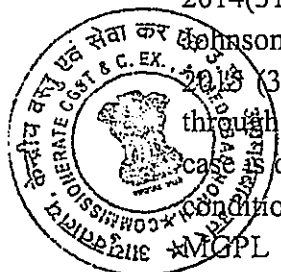
- (viii) In case of goods cleared to the manufactures, M/s MGPL is not entitled for exemption under said notification as said parties had captively consumed said finished goods in manufacture of their exempted final product. The value of such goods is determined as per the provision of Section 4 of Central Excise Act, 1944 read with Rule 8 ibid.
- (ix) In case of goods cleared to their own related trading firms viz.-(1) M/s. Aman Fashion P. Ltd and (2)M/s. Natural Decor, M/s MGPL is also not entitled for exemption under said notification as said trading firms had sold said finished goods as such in local market without payment of Central Excise duty thereon. The value of such goods is determined as per the provision of Section 4 of Central Excise Act, 1944 read with Rule 9 ibid.
- (x) All these facts were admitted by Shri Anandkuamr, Director of Mis MGPL, in his above statements dated 09-09-2016, 08- 12-2016 and 29-03-2017.

23. In view of the above it is clearly established that M/s MGPL had knowingly misclassified the product i.e. Printed Decorative Paper in rolls under CETSH No. 49119990 of the schedule to the CET A, 1985 to evade the Central Excise Duty. Shri Anandkumar Agarwal Director of M/s MGPL in his statements agreed that the product manufactured by their unit was printed Decorative Paper rightly classifiable under CETSH No. 48119099 of the schedule to the CETA, 1985 and attracts Central Excise Duty. Despite knowing that the aforesaid product was liable for payment of Central Excise Duty, they had neither taken Central Excise Registration nor paid any Central Excise duty. Subsequent to the inquiry by DGCEI, they have obtained Central Excise Registration and started paying duty on the printed Decorative Paper in rolls manufacture and cleared by them by classifying the same under CETSH No. 49119990 of the schedule to the CETA, 1985. Further, before initiation of inquiry they had never informed the department regarding the product and their classification. They had knowingly misclassified the product i.e. Printed Decorative Paper with intention to evade the Central Excise Duty to the tune of Rs.8,55,81,217/- . During the course of investigation, they voluntarily paid Rs.50,00,000/- vide GAR-7 Challan No.00181, 00190, 00192, 00194 and 00196 all dated 19.06.2016 which is to be appropriated against the amount recoverable from M/s MGPL.

24. Summary of Central Excise duty evaded by M/s Match Graphics Pvt.Ltd, Changodar on printed Decorative Paper manufactured and cleared by misclassifying the same under CETSH No.49119099 instead of classifying in the CETSH No.48119099 during the period from 01.04.2012 to 09.09.2016 as per Annexure - C to the show cause notice is as under:-

Year	Assessable Value/Rs.	Central Excise duty/Rs.	Edu. Cess 2%	HS Cess 1%	Total duty/Rs.
2012-13	68674214	8240906	164818	82409	8488133
2013-14	139914552	16789746	335795	167897	17293439
2014-15	157526069	18956407	352489	176244	19485141
2012-13	68674214	8240906	164818	82409	8488133
2013-14	139914552	16789746	335795	167897	17293439
2014-15	157526069	18956407	352489	176244	19485141

25. M/s MGPL has relied the case of Sai Security Printers Ltd reported in 2006 (199) ELT 121 (Tri), Data Processing Forms Pvt.Ltd Vs Commissioner, Ahmedabad, reported in 2014(311)ELT 161, Rathika Pvt. Ltd Vs Commissioner 2001 (133) ELT 610, Johnson & Johnson Ltd, 2003 (156) ELT 166 (SC), Commissioner of Central Excise Vs Gopsons Papers Ltd (324) ELT 5 (SC) and justified in classifying their product under CETSH 49. On going through the said case laws, I find that the description of the product manufactured in the present case is different and hence, not comparable. Besides, in the present case, the issue of violation of conditions of Notification No.214/1986 is also involved. Therefore, I reject the claim of M/s MGPL for classification of the goods in question under Chapter 49. They have also relied Circular No.1052/01/2017-CX dated 23.02.2017 of CBEC. I find in the said Circular also no





reference has been made on the description of goods manufactured by M/s MGPL and hence, not relevant to the present case. As such, I am of the view that the said circular can not be compared to the present case.

26. They also relied the case law of Servo-Med Industries Pvt.Ltd 2015(319) ELT 578 (SC), Commissioner of Central Excise, Bombay-IV Vs Fitrite Packers reported in 2015(224) ELT 625 (SC) and submitted a lengthy submission in their defence on the classification of their goods under Chapter 49, Explanatory notes under Chapter 49. They also relied on various case laws and stated that in the present case, that they have not availed Cenvat Credit of duties paid on base paper because they have been under a bonafide belief that surface paper produced by them on job work was not chargeable to Excise Duty since goods fall in Chapter 49 of the Tariff. But if Excise Duty is demanded for such surface paper and such duty is to be paid by them, then credit of duties paid on the inputs viz. base paper may be made available to them in the interest of justice.

27. M/s MGPL has also raised the issue of time bar of the show cause notice. I find that the period covered in the present show cause is from 2012-13 to 2016-17. They relied up on a number of case laws. I find that the SCN has been issued by invoking the extended period of five years as M/s MGPL has knowingly misclassified the product, not taken Central Excise Registration and not paid any Central Excise duty on the goods manufactured by them. Therefore, I hold that the Department has rightly issued the show cause notice by invoking the extended period under the Central Excise Act, 1944, and rules made thereunder. Had the DGCEI not detected the evasion of Central Excise duty, there would have been a big loss to the Government exchequer.

28. They also raised the issue of penalty under Section 11AC of the Central Excise Act, 1944 read with Rule 25 of the Central Excise Rules and also penalty under Rule 26 on Shri Anandkumar Agarwal, Director. They also relied the case of Hindustan Steel Ltd reported in 1978 ELT (J159) wherein the Supreme Court has held that penalty should not be imposed merely because of it was lawful to do so. I find that in the present case, penalty has been proposed in the show cause notice against M/s MGPL for the clear involvement of evasion of Central Excise duty by the firm and its Director. They cannot escape their act of wrong doings which affects the Government revenue. Therefore, I agree with the proposal of penalty.

29. They stated that an amount of Rs.50 lakhs has been deposited by them during investigation. As the proceedings proposed in the show cause notice deserves to be withdrawn, returning their deposit should be considered. They also relied a case law in the case of Parle International Ltd reported in 2001(127)ELT 329 and in the case of Shakti Chemical Industries 1995(76)ELT 140. I find that their claim is not justified in view of the peculiar nature of the case and therefore, I am not in a position to consider their request.

30. They stated that mere printing does not amount to manufacture and relied a few case laws. I find that the facts and circumstances of the said cases are not similar and not comparable with the present case.

31. They also said that duty has to be demanded from the principal and duty can not be demanded from job worker and relied a few case laws. They also relied Board's Circular No.306/22/97-CX dated 20.03.1997. I find that in the case of job work, the conditions of Notification No.214/86 as amended has to be fulfilled then only exemption is available. In the present case, the said conditions were not fulfilled and hence, they are liable to pay Central Excise duty along with interest.

32. They also stated that Rule 8 is not applicable in the present case thus in absence of any other proposed valuation rules in the SCN the demand is not sustainable. They also relied a few case laws in this regard. I find that in the present case, valuation proposed by the Department is appropriate as explained in the show cause notice and their contention for ignoring the said Valuation Rules is not justified.

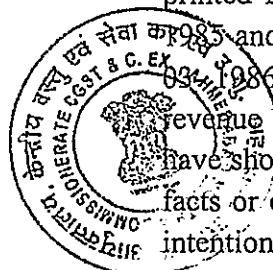
33. They relied a case of Commissioner of Central Excise Ahmedabad-1 Vs M/s.Matchwell

in Central Excise Appeal No.10404/2019(CESTAT order No. A/11011/2019 dated 29.04.2019/21.06.2019) and a few other judgments and stated that their case falls under Chapter 49 and not taxable. I find that in the said case, the base paper was received by the appellant in roll form from their principals. The appellant was merely carrying out printing activity thereon, while clearing the same to their principals. Such printed paper is to be used in production of decorative laminate sheets/MDF boards etc. Whereas in the present case, there is manufacturing and clearing different types of printed Decorative Paper in rolls, the Printed Decorative Paper manufactured by M/s MGPL was used for manufacturing of High pressure decorative Laminated Sheets, Particle Boards, MDF Boards as decorative surface of the product. The end use changed as a result of decorative printing process undertaken by M/s MGPL. The process of aforesaid particular kind of printing has resulted into a new commercial product different from the one with which the process started. Thus, the resultant finished goods are an article with different name, character and use, which it did not bear earlier. The product has wrongly been classified the as printed Decorative Paper under CETSH No.49119990 of the schedule to the CETA, 1985. The General Chapter Note of HSN the decorative printing does not fall under Chapter 49 of the CETA, 1985. Further, the condition to avail exemption for job work under the Notif.No.214/86-CE dated 25.03.1986 as amended is that the principal manufacture should use the goods got manufactured on job work basis in the manufacturing of dutiable final product and fulfill the conditions of the notification. Besides, in the case of goods cleared to their own related trading firms viz (i) Aman Fashion Pvt. Ltd and (ii) Natural Décor, M/s MGPL is also not entitled for exemption under the said notification as said trading firms had sold the said finished goods as such in local market without payment of Central Excise duty. In view of the above factors, the case law relied by M/s MGPL cannot be compared with the present case as facts and circumstances of the cases are different. Therefore, the claim by M/s MGPL that their product should be classified under CETSH 49119990 under nil rate of duty is rejected.

34. In view of the foregoing discussion, it is obvious that M/s MGPL has contravened following provisions of Central Excise Act, 1944 and Rules framed there under:-

- (i) Section 3 of the Central Excise Act 1944 in as much as they cleared the excisable goods without payment of appropriate Central Excise Duty.
- (ii) Rule 4 of the Central Excise Rules, 2002 in as much as they had failed to discharge duty on the removal of their final product in the manner provided under the law. They had wrongly classified the product 'Printed Decorative Paper in rolls' and failed to discharge appropriate duty on removal of the same;
- (iii) Rule 6 of the Central Excise Rules, 2002 in as much as they failed to assess duty on their final product properly;
- (iv) Rule 8 of the Central Excise Rules, 2002 in as much as they failed to pay proper Central Excise duty on their final products by stipulated time;
- (v) Rule 10 of the Central Excise Rules, 2002 in as much as they failed to maintain proper records on a daily basis by showing wrong description of the goods, cleared by them, as discussed in foregoing paras;
- (vi) Provisions of job work exemption Notification No. 214/86-CE dated 25-03-1986, as amended

35. I find that the acts of omission and commission on the part of M/s. MGPL committed an offence by way of wilful mis-statement, in as much as they had mis-classified and cleared the printed Decorative Paper in rolls under CETSH No. 49119990 of the schedule to the CETA, 1985 and wrongly availed benefit of job work exemption Notification No. 214/86-CE dated 25-03-1986, as amended and resulting in non payment of duty. They wilfully defrauded the Govt. revenue by adopting the novel modus operandi, as discussed in details in foregoing paras. They have short paid the duty by reason of fraud, collusion, or wilful mis-statement or suppression of facts or contravention of provisions of this Act or of the rules made thereunder with mala fide intention to evade payment of Central Excise duty. Shri Anandkumar Agarwal, Director of M/s MGPL described the modus operandi, adopted by them, vide his statements dated 09-09-2016, 08-12-2016 and 29-03-2017. Thus the Central Excise duty amounting to Rs. 8,55,81,217/- (BED



Rs. 8,43,01,564/- + Edu Cess Rs. 8,53,102/- + HSE Cess Rs. 4,26,551/-), as detailed in Annexure-C to the SCN, is recoverable from M/s. MGPL by invoking extended period in terms of proviso to Section 11A (4) of the Central Excise Act, 1944 along with interest under Section 11AA of the Central Excise Act, 1944. The aforesaid goods are liable for confiscation under Rule 25 of Central Excise Rules, 2002, however same are not available for confiscation. For the acts of mis-statement and contravention of above provisions, they are also liable for penalty under Section 11AC of the Central Excise Act, 1944 read with Rule 25 of Central Excise Rules, 2002. Section 11AC 1 (c) read as under:-

“ c) where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by reason of fraud or collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, the person who is liable to pay duty as determined under sub-section (10) of section 11A shall also be liable to pay a penalty equal to the duty so determined :

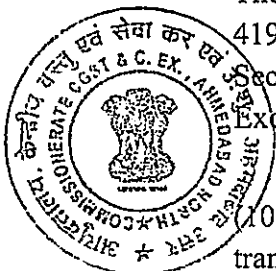
36. I find that Shri Anandkumar Shankarlal Agarwal, Director of M/s MGPL is the key person, who is looking after all the operations relating to production, accounts and taxation matters. He is the master-mind behind this modus operandi, which resulted into evasion of duty amounting to Rs. 8,55,81,217/- Shri Anandkumar Shankarlal Agarwal, acquired possession of, or was concerned in manufacturing, transporting, removing, depositing, keeping and has dealt with these excisable goods which he had known or had reason to believe are liable to confiscation under the Act or these rules. All these acts of omission and commission on the part of Shri Anandkumar Shankarlal Agarwal has rendered him liable for penalty under Rule 26 of the Central Excise Rules, 2002.

37. In view of by above findings, I pass the following orders:-

### ORDER

- (i) I order that the Excisable Goods viz. "Printed Decorative Paper in Rolls" manufactured and cleared by M/s Match Graphics Pvt.Ltd, Ahmedabad, be classified under CETSH No. 48119099 of the schedule to the CETA, 1985.
- (ii) I confirm the Central Excise duty totally amounting to Rs. 8,55,81,217/- (Eight Crore Fifty Five Lakhs Eighty One Thousand Two Hundred Seventeen only), under the proviso to Section 11A(4) of the Central Excise Act, 1944 and order that the said amount be recovered immediately from M/s. Match Graphics Pvt. Ltd., 497a, 419a, 498A,Radhe Industrial Estate, Tajpur Road, Changodar, Ahmedabad.
- (iii) The amount of Rs.50,00,000/- voluntarily paid by M/s Match Graphics Pvt. Ltd, Ahmedabad, during investigation vide GAR-7 Challan No. 00181, 00190, 00192, 00194 & 00196 all dated 19-06-2016 appropriated and adjusted against the confirmed demand.
- (iv) I order recovery of interest at the applicable rate on the amount confirmed at SI. No (ii) above under Section 11AA of Central Excise Act, 1944;
- (v) I impose a penalty of Rs. 8,55,81,217/- (Eight Crore Fifty Five Lakh Eighty One Thousand Two Hundred Seventeen only) on M/s. Match Graphics Pvt. Ltd., 497a, 419a, 498A,Radhe Industrial Estate, Tajpur Road, Changodar, Ahmedabad under Section 11AC 1 (c) of the Central Excise Act, 1944 read with Rule 25 of Central Excise Rules, 2002.

Section 11AC 1 (e) states that where any duty as determined under sub-section (10) of section 11A and the interest payable thereon under section 11AA in respect of transactions referred to in clause (c) is paid within thirty days of the date of communication of the order of the Central Excise Officer who has determined such duty, the amount of penalty liable to be paid by such person shall be twenty-five per



cent of the duty so determined, subject to the condition that such reduced penalty is also paid within the period so specified. Accordingly I give M/s. M/s. Match Graphics Pvt. Ltd., Ahmedabad an option for payment of reduced penalty on the penalty imposed at sr. no. (v) above.

- (vi) I impose a penalty of Rs 50 lakh ( Fifty lakh only) on Shri Anandkumar Shankarlal Agarwal, Director of M/s. Match Graphics Pvt. Ltd, 497 A, 419A,498A, Radhe Industrial Estate, Tajpur Road, Changodar, Ahmedabad under Rule 26(1) of the Central Excise Rules, 2002.

38. SCN No. DGCEI/AZU/36-34/2017-18 dated 28.04.2017 issued to M/s. Match Graphics Pvt. Ltd, 497A, 419A,498A, Radhe Industrial Estate, Tajpur Road, Changodar, Ahmedabad, is disposed off in above manner.



F.No.V.48/15-14/OA/2017

By Registered A.D.

To,

- (i) M/s. Match Graphics Pvt. Ltd.,  
497a, 419a, 498A, Radhe Industrial Estate,  
Tajpur Road, Changodar, Ahmedabad.
- (ii) Shri Anandkumar Shankarlal Agarwal,  
Director, Mis Match Graphics Pvt. Ltd.,  
497a, 419a, 498A, Radhe Industrial Estate,  
Tajpur Road, Changodar, Ahmedabad.

Copy to :

1. The Principal Chief Commissioner, Central GST & Central Excise, Ahmedabad Zone.
2. The ADG(DGGI), AZU, 6th & 7th Floor, "I-the Address" Opp. H.C.G. Cancer Hospital, Near Sola Flyover, Sola, Ahmedabad-380060
3. The Deputy Commissioner, CGST & C.Excise, Division-IV, Ahmedabad North
4. The Superintendent, CGST & C.Excise, Range-III, Division-IV, Ahmedabad North
- ✓ 5. Guard File.

  
(Dr. Balbir Singh)

Commissioner

Date : 21.07.2020.