

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
CHENNAI**

REGIONAL BENCH – COURT NO. III

**EXCISE APPEAL No.40502 of 2020**

(Arising out of Order-in-Appeal Nos.07/2020 (CTA-I) dated 14.01.2020 passed by Commissioner of GST & Central Excise (Appeals-I), Chennai].

**M/s.Mohanlal Jewellers Pvt. Ltd.**

121 N.S.C. Bose Road,  
Sowcarpet,  
Chennai 600 001.

**Appellant**

VERSUS

**Commissioner of GST & Central Excise**

Chennai North Commissionerate  
26/1, Mahatma Gandhi Road,  
Nungambakkam,  
Chennai 600 034.

**Respondent**

**APPEARANCE :**

Shri Joseph Prabhakar, Advocate  
For the Appellant

Shri Arul C. Durairaj, Superintendent  
For the Respondent

**CORAM : HON'BLE MS. SULEKHA BEEVI C.S., MEMBER (JUDICIAL)  
HON'BLE MR. P. ANJANI KUMAR, MEMBER(TECHNICAL)**

**DATE OF HEARING : 02.02.2022  
DATE OF PRONOUNCEMENT: 07.02.2022**

**FINAL ORDER No. 40060/2022**

**Order PER : P. ANJANI KUMAR**

M/s. Mohanlal Jewellers Pvt. Ltd., the appellants herein are manufacturers of gold jewellery and articles of gold ie., gold coins falling under Chapter 7113 and 7114 of Central Excise Tariff Act, 1985 (CETA, 1985 in short); the appellant manufactured and supplied gold coins to be distributed by the Government of Tamil Nadu under some welfare scheme undertaken by

the Government and also to M/s. Chettinad Cement Corporation Pvt. Ltd., for distribution to their employees. The department opined that the appellant manufactured gold coins bearing a brand name of others and thus gold manufactured by them attract 1% duty in terms of Notification No.12/2012-CE dated 17.03.2012 as per Sl. No. 200. A Show cause notice (SCN) dated 07.02.2019 was issued to the appellant and was confirmed by the impugned order dated 19.09.2019, wherein the learned Commissioner has confirmed the duty of Rs. 1,65,49,141/- and appropriated the amount paid towards duty and interest and imposed equal penalty under Section 11 AC of the Central Excise Act, 1944 (CEA, 1944 in short). Hence this appeal.

2. Learned Counsel for the appellant submits that the learned adjudicating authority has not appreciated the purported Notification No. 12/2012 and a plain reading of the same would indicate that the appellants are entitled for the exemption contained therein; "symbol/marks" in the instant case are not used in relation to a product, for the purpose of indicating or so as to indicate a connection in the course of trade between the product and some person using such name or mark with or without any indication of identity of the person; general information like weight, purity etc., is embossed along with the hologram or symbol to their customers; it is not the case of the department that these are Government of Tamil Nadu nor Chettinad Cement Corporation Pvt. Ltd., are engaged in the business of selling gold coins under the said brand name; no sale what so ever has been effected by the said customers; it is only for the sake of identification the emblem or hologram or symbol has been utilized. The symbol is only a "house mark" to give identity to the gold coins; there has been no trade /market recognition of the gold coins by way of either " Temple Tower Symbol" inscribed in the coins supplied by the Government of Tamil Nadu or the "Symbol of Chettinad Cements Corporation Pvt. Ltd.," inscribed in the gold coins supplied to them; the

embossing of symbols " was merely for the purpose of identification of the manufacturer to the common public in respect of the Government of Tamil Nadu and for the same purpose in respect of gold coins supplied to Chettinad Cements Corporation Pvt. Ltd. Learned Counsel submits that the clarification dated 25.03.2011 issued by the CBEC is in their favour and relied upon the following judgments:-

1. *Astra Pharmaceutical Pvt. Ltd., Vs. Collector of Central Excise, Chandigarh* reported in 1995 (75) ELT 214 (SC)
2. *Tarai Food Ltd., Vs. Commissioner of Central Excise, Meerut-II* 2006 (198) ELT 323 SC
3. *Shruti Art (P) Ltd., Vs. Commissioner of Central Excise, Mumbai* 2019 (369) ELT 986 (Tri.-Mum.)
4. *Commissioner of Central Excise, Chandigarh Vs. Hemkunt Builders* 2002 (141) ELT 376 (Tri.-Del.)
5. *Electromhs (P) Ltd. Vs. Commissioner of Central Excise, Bangalore* 2000 (116) ELT 265 (Tribunal)
6. *Commissioner of Central Excise, Mumbai Vs. Kalvert Foods India Pvt. Ltd.* 2011 (270) ELT 643 (S.C.)
7. *RDB Textiles Ltd. Vs. Commissioner of C.Ex. & ST, Kolkata* 2018 (359) ELT 433 (S.C)
8. *M/s. Neat Prints Vs. Commissioner of C.Ex., Aurangabad* 2018-TIOL-563-CESTAT-MUMBAI

3. Learned AR for the Revenue reiterated the findings of the OIO & OIA and relied upon the decision of the Hon'ble Supreme Court in the case of *Kohinoor Elastics Pvt. Ltd. Vs. CCE, Indore* reported in 2006 (188) ELT 3 (S.C.).

4. Heard both sides and perused the records.

5.1 The appellants in the course of their business have obtained orders for manufacturing gold coins from the Government of Tamil Nadu as well as from Chettinad Cements Corporation Pvt. Limited. We find that the coins manufactured for the Government were supposed to be used for the distribution to the beneficiaries' of the Government Scheme. We also find that as per the confirmation given by the Senior Manager of Chettinad Cements Corporation Pvt. Ltd., during the cross examination on 23.08.2019, the gold coins were meant for distribution to the stockists and dealers as incentives and they did not trade the gold coins so purchased. We find that the department confirmed the duty only on the premise that the appellants have manufactured branded jewellery. We find that what the adjudicating authority has lost sight of is the fact that though the appellants have inscribed/embossed the name of the customers as well as Govt. of Tamil Nadu and Chettinad Cements Corporation Pvt. Ltd., it could not be said to be a 'brand' used in connection of trade and commerce engaged by the person. It is not the case of the department that either of the customers of the appellant is engaged in the trade and gold coins bearing their brand. Therefore, the very concept of branding goods is not appreciated in a legal and proper manner. Admittedly, inscribed or embossed on the gold coins manufactured by the appellants have their customers is certain identification with the respective customers who have got the gold coins manufactured for distribution only and not for use as a merchandise. As long as the customers of the appellants are not engaged in the trade/commerce/business, inscription on the gold

coins cannot said to have in connection in the course of trade with the product manufacture.

5.2 Moreover, we find that the issue is no longer *res intergra*. Hon'ble Apex Court in the case of *RDB Textiles Ltd.*, (supra) has held that -

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

5.3 We further find that the Tribunal in the case *Shruti Art Pvt. Ltd.* (supra) Held that -

“5.2 From plain reading of the said notification and circular referred, above it is evident that the use of brand name should in the course of trade in the goods under consideration. If the same is not in the course of trade then benefit of the exemption contained in this notification cannot be denied. In the present case LIC Logo printed on diaries do not establish any connection between the goods and the logo, hence the same cannot be said to be in the course of trade. Further it cannot be said that LIC is in

trade of selling the LIC diaries. Thus without establishing such connection between the goods and logo printed on the diaries benefit of exemption under Notification No. 8/2003-C.E. cannot be denied.”

On going by the ratio of the above judgments, we find that as long as the goods are not sold by the customers of the appellant in the brand name which they are manufactured, the same cannot be held bearing brand name making them dutiable. Therefore, we are of the considered opinion that as the appellants have not manufactured branded jewellery, the exemption contained in the said notification is applicable to them and the impugned order is not legally sustainable.

6. In the result, the impugned order is set aside and the appeal is allowed with consequential reliefs, if any, as per law.

(Order Pronounced in the court on **07.02.2022**)

**(SULEKHA BEEVI C.S.)**  
**MEMBER (JUDICIAL)**

**(P. ANJANI KUMAR)**  
**MEMBER (TECHNICAL)**