



## NITYA'S INSIGHT

*Judgement Update | Recent judgment of  
Supreme Court on Advance Authorization*

August 12, 2015

Dear Reader,

This is to update you on a recent ruling of the Supreme Court in the case of **CC vs Pennar Industries**. Copy of the judgment has been attached for ready reference.

In this case, the assessee had imported goods under DEEC Scheme by availing benefit of Notification No. 30/1997 dated April 1, 1997 ('the Notification'). The goods manufactured from the imported goods were not of requisite quality, therefore, the assessee did not use the imported inputs for manufacture of export goods. The assessee procured the goods from outside and exported them. Examining the bona-fide of the assessee, DGFT passed an order allowing the benefit of the Notification to the exporter.

The Supreme Court observed that the Notification required that the exempted inputs shall not be disposed of or utilized in any manner except fulfillment of export obligation. In other words, in order to avail the benefit of the Notification, the products to be exported should be manufactured from the very same raw materials which were imported under the Notification. The Supreme Court also observed that the decision of DGFT is not binding on customs authorities and they can may independently adjudicate the matter even after DGFT concludes that export obligation has been fulfilled. In light of the above, the Supreme Court held that the assessee has violated the condition of the Notification and is liable to pay the duty alongwith interest.

We would like to point out that the present notification for advance authorization (attached for ready reference) does not contains a similar condition. However, it does contain a condition that that the export obligation is discharged by exporting resultant products, manufactured in India which are specified in the said authorization. It will be important to see whether the customs authorities would apply the Supreme Court decision to interpret the present Notification.

We hope that you will find this update useful. For any clarification, please feel free to revert.

Regards,

Team NITYA



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