



GN LAW ASSOCIATES

ARTICLES
2003 - 2004

www.gnlawassociates.com

EK-DHOTHI-KI-LOVE-STORY



Author: G. Natarajan, S. Jaikumar

Imposition of Central Excise duty and withdrawal of various exemptions on the Textile Sector is the most valiant act in the annals of Central Excise history in the past few decades (May be even in the living memory!). The conviction to sustain with the imposition, despite being within the mounting political and industrial pressure cooker is much more gallantry worth a Param Vir Chakra.

Yarn was always dutiable. Garments were brought to the net two years back. But the imposition on processed and unprocessed fabrics are new. With various value based exemptions available, the entire textile industry is running around a musical chair to find their "Best suited" classification among processed, unprocessed fabrics and garments.

In this article we try to surface one such anomaly. The department while classifying Dhotis and Sarees vide its circular No:557/53/200:CX dated 03/11/2000 has distinguished that such dhotis and sarees are not classified as "Made ups" under chapter heading 63 but has proceeded to classify them under chapter heading 52/54/55 as **fabrics**. The relevant extract of the Board's circular is as under:

".....In the circumstances, it is hereby clarified that unhemmed/unstitched Dhotis/Sarees which are basically woven as fabrics in running lengths with same pattern of weaving and which do not contain extra threads contributing greater thickness to the cloth with the outermost line running at or near the edge at regular intervals, so as to provide a substitute for hem (i.e. to protect unravelling of yarn or to prevent fraying of the edges), will continue to be classifiable as fabrics under Chapter 52/54/55. Rectangular (including square) articles simply cut out from such long running length fabrics without other working and not incorporating fringes formed by cutting dividing threads, even if sold folded or put up in packing will not be regarded as "product in the finished state" and would merit classification as fabrics as per this practice followed hitherto."

With the wisdom best known to the department, "dhotis" remain to be classified as either processed or unprocessed fabrics, as the case may be. Thus dhotis, be it in a running length or cut to size, shall remain to be classified as fabrics and not as "articles of apparel" under chapter heading 6201 of CETA, 1985. Even in the Draw back schedule, dhotis/sarees are considered and classified under chapter heading 52/54/55 and not under Chapter 62, which adds sum to the substance. Having been treated as a fabric even after being cut into individual pieces, dhotis enjoy the comfort of not being subjected to duty once again as *articles of apparel*. In other words, once duty is paid or exemption is enjoyed as a fabric, subsequent activity of cutting such running length fabrics into individual dhotis, packing them in retail packs or labeling them do not attract any Central Excise duty.

Contrary to the above logic, lungies which are similar apparels to that of dhotis get a different treatment when it comes to its classification. By and large, lungies are also predominately woven fabrics and meet all the requirements to get classified as fabrics, applying the merits and logic as spelt out in the above said Board circular. But it is not so. Even in the Draw back schedule, lungies, be it stitched or not, get classified under chapter heading 62. This makes lungies more vulnerable to Excise levy by each of its subsequent activities of either cutting such running length fabrics into individual lungies or packing them in retail packs or labeling them attracting Central Excise duty at every point.

With the SSI exemption withdrawn for articles of apparel falling under chapter 62, the situation is so volatile for small time lungi manufacturers, making their life further miserable.

Is the intention behind such disparity is to promote "dhoti" against the "lungi."

