courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 18/08/2026

(2004) 09 GUJ CK 0055

In the Gujarat High Court

Case No : Special Civil Application No. 17068 of 2003

Birla VXL Ltd. APPELLANT

Vs

Union of India (UOI) RESPONDENT

Date of Decision : 20-09-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2005) 183 ELT 350

Hon'ble Judges : Sharad D. Dave, J;B.J. Shethna, J

Bench : Division Bench

Advocate : Paresh M. Dave, for the Appellant; Dharmishta Raval and Jitendra Malkan, for the Respondent

Final Decision : Dismissed

Judgement

B.J. Shethna, J.—Heard Shri Dave, learned advocate for the petitioner and Mr. Malkan, learned Standing Counsel for the respondents.

2. The petitioner had earlier filed Special Civil Suit no. 35 of 1979 before the Court of Civil Judge (SD), Jamnagar for the refund of its amount paid by it as excise duties on blended yarn which was decreed for Rs. 22,66,759.44 ps. along with the cost of Rs. 25,561/- in favour of the petitioner. Appeal filed by the Excise Department against this order before this court was allowed and the petitioner was directed to refund the amount which was paid to it under the interim orders of this court in appeal to the department @ 20% interest, against which the appeal was filed before the Hon''ble Supreme Court by the petitioner which was also later on dismissed by holding that the department was entitled to recover the refund amount.

3. On 20-10-1997, Superintendent, Central Excise wrote a letter to the petitioner-company calling upon it to deposit Rs. 23,02,696.68 ps. along with interest @ 18% in view of the judgment of the Hon''ble Supreme Court, out of which the petitioner-company deposited Rs. 22,66,759/- on 9-3-1999 and later on i.e. on

16-5-2000, it had deposited cost amount of Rs. 25,561/-.

4. Initially, the Excise Department had demanded interest @ 18% but later on it agreed for 12% interest instead of 18% and accordingly the petitioner paid the interest of Rs. 52,02,303/- from its Cenvat Credit Account and informed the department about it. However, the department informed the petitioner that such payment from Cenvat credit account was not accepted and insisted for cash. Accordingly, on 28-8-2001, the petitioner had deposited Rs. 4 lakhs in cash and thereafter on 23-11-2001, the petitioner-company had requested the Commissioner of Central Excise to give 24 installments for paying the interest in cash. Between the period of August, 2001 to November, 2003 the company had deposited Rs. 43,55,353/- in cash in installments out of total amount of Rs. 52,02,303/-. Thus, Rs. 8,46,950/- remained to be paid. Having agreed to pay the interest in cash way back in 2001 and in fact paying substantial amount of Rs. 43,55,303/-out of total amount of Rs. 52,02,303/- by November, 2003, the petitioner cannot make any grievance later on before this court under Article 226 of the Constitution of India for remaining unpaid interest amount of Rs. 8,46,950/-.

5. Under the circumstances, without going into any other questions raised by the learned counsel Shri Dave for the petitioner in this petition, this petition is required to be dismissed only on this ground. Accordingly, it is dismissed. Notice discharged. No order as to costs.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/birla-vxl-ltd-appellant-hash-union-of...