

(2015) 05 GUJ CK 0045

In the Gujarat High Court

Case No : Special Civil Application No. 8333 of 2015

Excel Export

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 07-05-2015

Acts Referred:

Customs Act, 1962 — Section 74, 75

Citation : (2015) 323 ELT 476

Hon'ble Judges : V.M. Sahai, A.C.J;R.P. Dholaria, J

Bench : Division Bench

Advocate : Dipen Desai, for the Appellant; Y.N. Ravani, Advocates for the Respondent

Judgement

V.M. Sahai, Acting C.J—We have heard learned advocate Mr. Dipen Desai for the petitioner and learned advocate Mr. Y.N. Ravani for the respondents. Since the facts are not disputed, we propose to dispose of the petition without calling for any counter affidavit, at the admission stage itself.

2. Learned advocate for the petitioner has urged that he is claiming duty drawback under Sections 74 and 75 of the Customs Act under Chapter Heading 7318 whereas the respondents are claiming duty drawback under Chapter Heading 7308 which is 1.9%. Apart from it, according to the respondents, the weight of the material which is to be exported is less whereas the petitioner has shown more weight. The petitioner has made a clear statement before us that it will not be claiming duty drawback either of the heads till the matter is finally decided by the authority.

3. Learned advocate Mr. Ravani has placed reliance on Circular No. 1/2011-Customs, dated 4-11-2011 and Circular No. 30/2013-Customs, dated 5-8-2013. We have gone through the Circulars carefully. These Circulars require exporter to execute a bond of an amount equal to the value of goods and furnish appropriate security in order to cover the redemption fine and penalty in case goods are found to be liable to confiscation. We have directed the petitioner to furnish bond

of 100% value of the goods. Therefore, our order is in consonance with the Circulars issued by the Customs Department.

4. In view of the above, the goods of the petitioner shall be released for export expeditiously preferably within a period of one week from the date of copy of this order is produced before respondent No. 2 provided the petitioner furnishes bond equal to the amount of seized goods other than cash and bank guarantee. This order shall be complied with by the authority. With the above observations, the petition stands disposed of. Direct service is permitted.