

(1993) 06 BOM CK 0040

In the Bombay High Court

Case No : Writ Petition No. 2164 of 1983

Grentex and Company

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 22-06-1993

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1993) 48 ECR 556 : (1993) 67 ELT 459

Hon'ble Judges : M.L. Pendse, J;A.P. Shah, J

Bench : Division Bench

Advocate : Shri S.C. Dharmadhikari, instructed by M/s Kanga and Co, for the Appellant; Shri M.I. Sethna and Shri H.V. Mehta, for the Respondent

Judgement

Pendse, J.—The petitioners carry on business as exporters, importers and manufacturers of man-made fibres. In the course of the business, the petitioners imported two consignments of Cash million Brand Acrylic fibre. The customs duty is leviable on the imported item under Heading 56.01/04 of the First Schedule to the Customs Tariff Act, 1975. The rate of duty payable in respect of items covered by Entry 56.01/04 is 140%. By notification dated March 1, 1983 issued by the Central Excise Rules, manmade fibres other than textured falling under Item No. 18 of the First Schedule the duty of excise leviable thereon at the rate specified in the First Schedule as is in excess of the amount calculated at the rates specified in the table annexed to the Notification. In respect of acrylic fibre, the table provides that the rate would be Rs. 24/- per kilogram. The table further reads as under :

" Provided that acrylic fibre shall be exempted from so much of the duty of excise leviable thereon under the said Act is in excess of rupees fourteen per kilogram if such acrylic fibre has been manufactured from acrylonitrile produced in India."

2. The petitioner claim that in view of the notification, the consignments imported are liable to a maximum duty of customs upto the extent of 100% ad valorem. The claim was not accepted by the Customs authorities and that gave

rise to the filing of the present petition under Article 226 of the Constitution of India. Though the petition raises other contentions, Shri Dharmadhikari, learned counsel appearing on behalf of the petitioners, very fairly stated that other contentions are not pressed as they are concluded by decisions of this court. The sole contention urged by the learned counsel is that in view of the exemption notification issued under Central Excise Rules, the levy of duty on imported of acrylic fibre at a rate different from the duty leviable on acrylic fibre at a rate different from the duty leviable on acrylic fibre manufactured from acrylonitrile produced in India is not permissible. According to the learned counsel, the advantage which is available to the indigenous manufacturers should be equally available in respect of imported goods. We are unable to appreciate any merit in the submission. It hardly requires to be stated that the goods manufactured indigenously and goods imported from abroad constitute two different and distinct categories and the advantage conferred on the manufactures of indigenous goods cannot be claimed on equal basis by the importer of the goods. In our judgment, the petitioners are not entitled to any relief and the petition must fail.

3. Accordingly rule is discharged with costs. The respondents are at liberty to enforce the Bank guarantee forthwith along with interest as per the interim order passed at the stage of admission of the petition.