

(1990) 05 GUJ CK 0002
In the Gujarat High Court

Case No : Special Civil Application No's. 592, 702, 703, 1284 and 1287/90

J.B. Kharwar Sons

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 04-05-1990

Acts Referred:

Citation : (1992) 61 ELT 58

Hon'ble Judges : T.U. Mehta, J;G.T. Nanavati, J

Bench : Division Bench

Advocate : Paresh Dave, Gupta and Dave, of Trivedi, for the Appellant; J.D. Ajmera, Standing Counsel and B.B. Naik, A.S.C., for the Respondent

Judgement

G.T. Nanavati, J.—The petitioners in these petitions are engaged in the business of processing cotton and man-made fabrics. They have filed

these petitions for appropriate write, order or direction directing the excise authorities to reassess the assessable value of the processed fabrics and

to grant refund with interest at the rate of 12% per annum on the excise duty collected by them.

2. Now it is settled by the decision of the Supreme Court that while arriving at assessable value of the processed fabrics, trader's profit is required

to be excluded. It is the petitioner's case and not in dispute now that the assessable value has been determined by the excise authorities after

including the trader's profit. It would, therefore, be necessary now to direct the excise authorities to reassess the value of the processed fabrics in

light of the judgment of the Supreme Court in Ujagar Prints & Ors. v. Union of India read with 1989 (39) E.L.T. 493 (S.C.), and refund that

amount which is found to be in excess of the duty legally payable.

3. In the result, these petitions are partly allowed. The respondent-excise authorities are directed to reassess the value of the processed fabrics for the period involved in these petitions and work out the amounts refundable to the petitioners. The excise authorities are directed to complete the re-assessment of value within three months from today and refund the excess amount within one month thereafter. In order facilitate the work of the excise authorities, the petitioners are also directed to submit their claim statements to the excise authorities within one month from today.
4. In view of the fact that the matters are finally disposed of, it will be open to the Registrar to encash the bank guarantees given to him to the extent of 75% and make payment to the department. As the bank guarantees given by the petitioners in Special Civil Applications Nos. 1284, 1287 and 703 of 1990 have lapsed, they are directed to renew the bank guarantees given by them within a period of one month from today.
5. Rule in each of these petitions is made obsolete to the aforesaid extent with no order as to costs.