(1990) 05 GUJ CK 0004

In the Gujarat High Court

Case No : Spl. C.A. No. 468, 593-597, 635-638, 704, 766, 817-18, 947-48 of 1990

Kwality Silk Mills — APPELLANT

Vs

Union of India — RESPONDENT

Date of Decision : 03-05-1990

Acts Referred:

Citation : (1991) 33 ECR 418 : (1992) 61 ELT 242

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

Bench : Division Bench

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 writ, 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 the 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 and Ors. v. Union of India : 1988 (38) ELT 535 read with 1989 (39) ELT 493 and refund that amount which is found to be in excess of the duty payable.