

(2007) 01 GUJ CK 0002

In the Gujarat High Court

Case No : Special Civil Application No. 2682 of 2007

Taha Wire Pvt. Ltd.

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 31-01-2007

Acts Referred:

Citation : (2008) 12 STR 793

Hon'ble Judges : Y.R. Meena, Acting C.J.;A.S. Dave, J

Bench : Division Bench

Advocate : P.R. Nanavati, for the Appellant; Harin P. Raval, for the Respondent

Final Decision : Dismissed

Judgement

A.S. Dave, J.—Learned Counsel for the petitioner submits that on the pretext of evasion of duty to the tune of Rs. 1,66,77,194/-, the respondent No. 2-Department procured 7 cheques under coercion, which were given by the petitioner under protest.

2. Learned Counsel for the petitioner submits that the petitioner is not liable for any duty, therefore, the respondents be directed to refund the amount which was encashed and return the remaining cheques to him.

Learned Counsel for the petitioner further submits that a similar case, being Special Civil Application No. 23338 of 2005 Abhishek Fashions Pvt. Ltd. Vs. Union of India (UOI), , was considered by this Court and by an order dated 21-1-2006, directions were given for refund of the amount which was encashed by the Department.

3. The fact remains whether the cheques were obtained under coercion or threat. That is a question of fact. Therefore, once the Court believed that in the aforesaid case the cheques were received by the Department under coercion, the Court can give directions, but that is not binding in all cases. That depends upon of facts of each case.

4. We do not believe the proposition put forward by the learned Counsel for the petitioner, as no evidence is placed on record that the cheques were obtained/procured from petitioner under coercion, except the fact that he has retracted his statements given earlier. That is not enough for holding that the cheques were procured under coercion.

5. Even assuming without admitting that the cheques were obtained under coercion, then the petitioner can file a police complaint, if he has any genuine grievance.

6. In the aforesaid facts and circumstances of the case, no relief under Article 226 can be granted.

7. Petition stands dismissed.