

(2015) 04 SC CK 0023

In the Supreme Court Of India

Case No : Civil Appeal No. 6781 of 2004

Union of India

APPELLANT

Vs

Gujarat Insecticides Ltd.

RESPONDENT

Date of Decision : 28-04-2015

Acts Referred:

Citation : (2015) 326 ELT 428

Hon'ble Judges : A.K. Sikri and Rohinton Fali Nariman, JJ.

Bench : Division Bench

Advocate : S/Shri Arshad Hidayatullah, Senior Advocate, K.V. Mohan and K.V. Balakrishnan, Advocates., for the Respondent; S/Shri Yashank Pravin Adhyaru, Senior Advocate, Subas C. Acharya, Ms. Binu Tamta and B. Krishna Prasad, Advocates, for the Appellant

Final Decision : Allowed

Judgement

1. Two things which become apparent from the reading of the order of the High Court that are : (i) the duty for which the claim of refund is made, was paid under protest by the assessee during the pendency of the adjudication proceedings; (ii) finding of fact is recorded to the effect that the intermediary product was not marketable. It would therefore follow that there was no question of passing on this element of duty to consumers/buyers. We, thus, do not find any merit in this appeal which is accordingly dismissed.