

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10413 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE K.M.MEHTA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

RAMESHKUMAR TANEJA

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 10413 of 2002
MR PARESH M DAVE for Petitioner No. 1
MR DN PATEL for Respondent No. 1
..... for Respondent No. 2-3
-

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE K.M.MEHTA

Date of decision: 29/11/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

Rule. Service of rule is waived by Shri D.N. Patel, Senior Central Government Standing Counsel, for the respondent authorities.

It is not in dispute that the view expressed by respondent No. 2 in the order dated 6.9.2002 is in violation of the law laid down by the Delhi High Court in the case of Pioneer Silk Mills, 1995(80) ELT 507 (Del.). It is also not in dispute that the view, which has been expressed in the case of Pioneer Silk Mills (supra), has been now confirmed by the Hon'ble Supreme Court.

In view of above undisputed legal position, penalty could not have been imposed on the basis of the provisions of the Central Excise Rules, 1944 for alleged violation of the Additional Duties Act. The impugned order passed by the Commissioner (Appeals) is, therefore, quashed and set aside.

The petition stands disposed of as allowed. Rule is made absolute with no order as to costs.

(A.R. Dave, J.)

(K.M. Mehta, J.)

(hn)