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UJAGAR PRINTS ETC. ETC.

v.

UNION OF INDIA & ORS.

JANUARY 27, 1989

B

[R.S. PATHAK, CJ, SABYASACHI MUKHARJI, S. NATARAJAN, M.N. VENKATACHALIAH AND S. RANGANATHAN, JJ.]

Central Excises and Salt Act, 1944/Central Excise Rules, 1944: Sections 2(f), 4/Rule 179—Processed fabric—Assessable value—
C *Determination of—Judgment of the Court dated November 4, 1988—Clarified.*

On a civil miscellaneous petition for clarification of this Court's judgment dated 4th November, 1988, the Court.

D

HELD: The assessable value of the processed fabric would be the value of the grey-cloth in the hands of the processor plus the value of the job-work done plus manufacturing profit and manufacturing expenses whatever these may be, which will either be included in the price at the factory gate or deemed to be the price at the factory gate for the processed fabric. [345D-E]

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The factory gate means the "deemed" factory gate as if the processed fabric was sold by the processor. [345E]

If the trader, who entrusts cotton or man-made fabric to the
F **processor for processing on job-work basis, would give a declaration to the processor as to what would be the price at which he would be selling the processed goods in the market, that would be taken by the Excise authorities as the assessable-value of the processed fabric and excise duty would be charged to the processor on that basis. Such a declaration would include only the price or deemed price at which the processed fabric would leave the processor's factory plus his profit. It is**
G **necessary to include the processor's expenses, costs and charges plus profit, but not the trader's profits who gets the fabrics processed, because those would be post-manufacturing profits.** [345G-H; 346B-C]

ORIGINAL JURISDICTION: Civil Miscellaneous Petition
H No. 32937 of 1988.

IN

Writ Petition No. 12183 of 1985.

(Under Article 32 of the Constitution of India).

K.K. Venugopal, Mrs. Jayashree Wad and Mrs. Aruna Mathur for the Petitioners.

K. Parasaran, Attorney General, A.K. Ganguli, P. Parmeswaran and K. Swamy for the Respondents.

The following Order of the Court was delivered:

ORDER

In respect of the civil miscellaneous petition for clarification of this Court's judgment dated 4th November, 1988, it is made clear that the assessable value of the processed fabric would be the value of the grey-cloth in the hands of the processor plus the value of the job-work done plus manufacturing profit and manufacturing expenses whatever these may be, which will either be included in the price at the factory gate or deemed to be the price at the factory gate for the processed fabric. The factory gate here means the "deemed" factory gate as if the processed fabric was sold by the processor. In order to explain the position it is made clear by the following illustration: if the value of the grey-cloth in the hands of the processor is Rs.20 and the value of the job-work done is Rs.5 and the manufacturing profit and expenses for the processing be Rs.5, then in such a case the value would be Rs.30, being the value of the grey-cloth plus the value of the job-work done plus manufacturing profit and expenses. That would be the correct assessable-value.

If the trader, who entrusts cotton or man-made fabric to the processor for processing on job-work basis, would give a declaration to the processor as to what would be the price at which he would be selling the processed goods in the market, that would be taken by the Excise authorities as the assessable-value of the processed fabric and excise duty would be charged to the processor on that basis provided that the declaration as to the price at which he would be selling the processed goods in the market, would include only the price or deemed price at which the processed fabric would leave the processor's factory plus his profit. Rule 174 of the Central Excise Rules, 1944

A enjoins that when goods owned by one person are manufactured by another the information is required relating to the price at which the said manufacturer is selling the said goods and the person so authorised agrees to discharge all the liabilities under the said Act and the rules made thereunder. The price at which he is selling the goods must be the value of the grey-cloth or fabric plus the value of the job work done plus the manufacturing profit and the manufacturing expenses but not any other subsequent profit or expenses. It is necessary to include the processor's expenses, costs and charges plus profit, but it is not necessary to include the trader's profits who gets the fabrics processed, because those would be post-manufacturing profits.

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N.P.V.