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C.A.No. 3623-3628 OF 2000

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Item No.	Court No.	Section
109	02	III

S U P R E M E C O U R T O F I N D I A
Record of Proceedings

Civil Appeal Nos. 3623-3628/2000

Commissioner of Customs, Chennai	Appellant (s)
vs.	

M/s. Borax India Ltd. & Ors. (with office report)	Respondent(s)
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Date:09/10/2001 This/These matter(s) was/were called on for hearing today.

CORAM:

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE ASHOK BHAN

For the Appellant (s): Mr. Harish N Salve, SG
Mr. Dilip Tandon, Adv.
Mr. B K Prasad, Adv.

For the Respondent(s): Mr. V Balachandran, Adv. (NP)

UPON hearing the counsel the Court made the following
ORDER

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The appeals are disposed of in terms of the signed order. No costs.

(D.P. Walia)
Court Master

(S.L. Goyal)
Court Master

(Signed Order is placed on the file)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.3623-3628 OF 2000@@
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Commissioner of Customs, Chennai

..Appellant(s)

vs.

M/s. Borax India Limited and Others

..Respondent(s)

O R D E R@@
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The Tribunal on a question relating to the valuation of the imported raw material, namely, Borax Penta Hydrate Neobar, had upheld the value disclosed by the respondents.

Having heard the learned counsel for the appellant, we are of the opinion that the said decision of the Tribunal relating to the value of the imported raw material calls for no interference. However, the Tribunal did not accept the contention of the appellant relating to the question of unjust enrichment. It held that as the goods were captively consumed, then in view of the law then prevailing the consequential relief of refund had to be ordered unaffected by the principles of unjust enrichment.

This Court in Union of India and Others vs. Solar Pesticides Pvt. Ltd. and Another, 2000 (2) SCC 705, has come to the conclusion that the principles of unjust enrichment would also be applicable in cases relating to captive consumption. We, therefore, direct that the question as to ...2/-

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whether any refund is to be given to the respondents, will be decided in the light of the principles laid down by this Court in the aforesaid decision in Solar Pesticide's case.

The appeals are disposed of in the aforesaid terms.
No costs.

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.....J.
(B.N. KIRPAL)

.....J.
(N. SANTOSH HEGDE)

.....J.
(ASHOK BHAN)

New Delhi;
October 9, 2001.