

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2621 OF 2006

COMMISSIONER OF CENTRAL EXCISE, SURAT-I ... Appellant

VERSUS

M.K. AGARWAL ... Respondent

WITH

CIVIL APPEAL NO. 2892 OF 2006

CIVIL APPEAL NO. 9734 OF 2011

O R D E R

CIVIL APPEAL NO. 2621 OF 2006

The issue involved in the present civil appeal is whether the goods cleared by the respondent in DTA in terms of paragraph 9.10 (b) of the EXIM Policy 2002-2007 with the permission of the Development Commissioner and against the payment in foreign exchange could be treated as "export" and, therefore, not liable to duty under the provisions of Section 3 of the Central Excise Act, 1944, by virtue of Notification No. 8/1997.

The aforesaid issue now squarely stands covered in favour of the assessee by the judgment of this Court in '*Virlon Textile Ltd. v. Commissioner of Central Excise, Mumbai* [2007 (211) ELT 353].

Another issue is as to whether the purchase of goods/
raw material from another EoU would be treated as
indigenously procured.

This question is also answered in favour of the
assessee by another judgment of this Court in '*Commissioner
of Central Excise, Surat-I v. Favourite Industries*' [2012
(278) ELT 145].

This appeal is, accordingly, dismissed.

CIVIL APPEAL NO. 2892 OF 2006
CIVIL APPEAL NO. 9734 OF 2011

These appeals are also dismissed in terms of the
aforesaid order passed in Civil Appeal No. 2621 of 2006.

....., J.
[A.K. SIKRI]

....., J.
[ROHINTON FALI NARIMAN]

New Delhi;
September 09, 2015.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No. 2621/2006

COMMNR. OF CENTRAL EXCISE, SURAT-I

Appellant(s)

VERSUS

M.K. AGARWAL

Respondent(s)

WITH

C.A. No. 2892/2006
(With Office Report)C.A. No. 9734/2011
(With Office Report)

Date : 09/09/2015 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Parties

Mr. A. K. Panda, Sr. Adv.
Mr. Arijit Prasad, Adv.
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Mr. B. Krishna Prasad, Adv.

Mrs. Anil Katiyar, Adv.

Mr. V. M. Doiphode, Adv.
Mr. Rajesh Kumar, Adv.
Mr. R. K. Srivastava, Adv.

Mr. Praveen Kumar, Adv.

UPON hearing the counsel the Court made the following
O R D E RThe appeals are dismissed in terms of the signed
order.(Nidhi Ahuja)
COURT MASTER(Renu Diwan)
COURT MASTER

[Signed order is placed on the file.]