

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2850/2006

COMMISSIONER OF CENTRAL EXCISE,
JAIPUR-I

APPELLANT (S)

VERSUS

M/S. J.K. SYNTHETICS LTD.

RESPONDENT (S)

WITH

CIVIL APPEAL NO. 2851 OF 2006

O R D E R

These appeals are filed by the Revenue with regard to the demand of duty on base yard which is captively used for texturising purpose. It was alleged in the show cause notice that substantial quantity of Nylon yard was being used for the manufacture of textured yarn. However, duty was not paid to the extent of base yarn rendered waste due to conversion of base yard and in the show cause notice duty was demanded. Show cause notice was amended after one year by substituting the word 'loss' in place of the word 'waste'.

It is not in dispute that on waste no duty is payable and this aspect has been dealt with by the Tribunal in *Modipon Ltd. vs. C.C.K.Meerut, [1999 (114) ELT 359]*. Insofar as the present case is concerned, the Tribunal has observed in the impugned order that the authorities are treating 'loss' and 'waste' as the same i.e. there was 'waste' of 6.5% of the base yarn during texturizing. In view

thereof, we are of the opinion that the case of the respondent-assessee was squarely covered by the decision in the case of Modipon Ltd. (supra) as mentioned above and the Tribunal rightly allowed the appeal of the respondent-assessee setting aside the order passed by the authorities below.

We find no merit in these appeals which are, accordingly, dismissed.

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

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

NEW DELHI;
AUGUST 26, 2015

ITEM NO.107

COURT NO.12

SECTION III

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(s). 2850/2006

COMMISSIONER OF CENTRAL EXCISE,
JAIPUR-I

Appellant(s)

VERSUS

M/S. J.K. SYNTHETICS LTD.

Respondent(s)

WITH

C.A. No. 2851/2006
(With Office Report)

Date : 26/08/2015 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ROHINTON FALI NARIMANFor Appellant(s) Ms. Pinky Anand, ASG
Mr. Yashank Adhyaru, Sr. Adv.
Ms. Sunita Rani Singh, Adv.
Ms. Nisha Bagchi, Adv.
Mr. B. Krishna Prasad, Adv.
Ms. Pooja Sharma, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

The appeals are dismissed in terms of the signed order.

(Ashwani Thakur)
COURT MASTER(Renu Diwan)
COURT MASTER

(Signed order is placed on the file)