

Fine Composite Private Ltd. Vs. Union of India (Uoi) and ors.

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Court : Mumbai

Decided On : Apr-15-1988

Reported in : 1988(18)LC506(Bombay)

Judge : Sujata Manohar, J.

Appeal No. : Writ Petition No. 3465 of 1986

Appellant : Fine Composite Private Ltd.

Respondent : Union of India (Uoi) and ors.

Judgement :

Sujata Manohar, J.

1. The petitioners manufacture paper tubes and paper cones. It is an accepted position that in view of the circular which was issued by the respondents on 6th August 1983, the goods manufactured by the petitioners are exempt from payment of Excise duty by virtue of exemption Notification No. 66/82 dated 28.2 1982. The present petition is in respect of the denial of the refund claim of the petitioners for the period 11 3.1982 to 7.2.1983. The claim for the subsequent period has been granted. The earlier claim is rejected as time-barred.

2. The petitioners applied for a refund for the period 11.3.1982 to 7 2 1983 less than 3 years from the date of the clarification. They have filed the present petition

within less than 2 years of the rejection of their application for refund. In these circumstances this is a fat case where the delay in applying for refund should be condoned.

3. The respondents oppose the petition on the ground that granting a refund would amount to unjust enrichment. Since the duty is paid and collected under a mistake of law the question of unjust enrichment does not arise.

4. The rule is made absolute in terms of prayers (a) and (b), save and except that the rate of interest in prayer (b)(ii) will be 12%. This is the rate of interest granted in the interest of justice, in other similar petitions by this High Court.

5. There will be no order as to costs.

6. The amount with interest to be refunded within 8 weeks from today.

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