

# SUPREME COURT OF INDIA

Prince Khadi Woollen Handloom Production Coop. Industrial Society Ltd.

Vs.

Collector of Central Excise

(S Bharucha and K Paripoornan JJ.)

05.11.1996

## ORDER

### **S.P. BHARUCHA AND K.S. PARIPOORNAN, JJ.**

1. In all these matters the original contention of the Revenue was that the appellants were not entitled to the benefit of the Exemption Notification No. 30/81-C.E., dated 1st March, 1981, issued under Rule 8(1) of the Central Excise Rules because the appellants did not satisfy the condition of being registered as handloom cooperative societies or organisations set up or approved by the Government for the purpose of the development of hand-loom. Ultimately, before the Tribunal, this contention of the Revenue was rejected. What the Tribunal considered, and held in favour of the Revenue, was that the appellants had not show that they were producing the woollen fabrics in "a factory owned by" each of them.
2. It does not appear that at any stage of the proceedings the appellants had been required to show that the factories in which they produced the woollen fabrics were owned by them. The order of the Tribunal refusing them the exemption of this ground must, therefore, be set aside.
3. If it is the case of the Revenue that the appellants are not entitled to the benefit of the exemption under the said Notification by reason of the fact that the appellants do not own the factories in which the woollen fabrics are produced, the Revenue must give to the appellants a notice to show cause in this regard and the matter must be processed from that stage.
4. The appeals are allowed. The judgment and order under appeal is set aside.
5. The tax, if paid or deposited pursuant to the order of the Tribunal or of the authorities below, shall be refunded to the appellants.
6. There shall be no order as to costs.