

**SUPREME COURT OF INDIA**

Commissioner of Central Excise Jaipur

Vs.

Modern Woollens Limited

C.A.Nos.7292-7293 of 1999

(C. K. Thakker, Ruma Pal and Arijit Pasayat JJ.)

02.03.2005

**ORDER**

1. The respondent produces yarn on job work basis. Additionally, it produces yarn on its own account which it sells in the open market. The question in these appeals is whether the appellant could treat the said two products as the same for determining the price of yarn produced on job work basis. According to the respondent the nature of the yarn produced by it for sale was of a different quality than the yarn produced on job work basis. Apart from that, it is said that the costs and margin of profit with regard to the sale of yam manufactured by it could not be compared with the value of the yarn produced, on job work basis having regard to the decision in *Ujagar Prints v. Union of India & Ors. reported in*<sup>1</sup>.
2. The Commissioner found that the product is the same and that the prices of the two were comparable. He also held that the decision in *Ujagar Prints* (supra) was not relevant.
3. On appeal, the Tribunal has merely held that the decision in *Ujagar Prints* (supra) was applicable without determining the further question whether the assessable value of the goods manufactured and sold by the respondent assessee could be compared with goods manufactured on job work basis as a matter of fact. In that view of the matter, we set aside the decision of the Tribunal and remand the matter to it for the purpose of determining (a) whether the goods are comparable and (b) whether the prices were comparable. We make it clear that the decision shall be taken by the Tribunal on the basis of the evidence already on record.
4. The appeals are, accordingly disposed of but without any order as to costs.

<sup>1</sup>1989 (39) ELT 493