

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3327 OF 2007

COMMISSIONER OF CUSTOMS (IMPORT), MUMBAI

...APPELLANT(S)

VERSUS

M/s. DILIP KUMAR AND COMPANY & ORS.

...RESPONDENT(S)

We should
use this
order in
our cases.

JUDGMENT

N.V. RAMANA, J.

SR
03/08

1. This Constitution Bench is setup to examine the correctness of the ratio in **Sun Export Corporation, Bombay v. Collector of Customs, Bombay**, (1997) 6 SCC 564 [hereinafter referred as '**Sun Export Case**' for brevity], namely the question

is - What is the interpretative rule to be applied while interpreting a tax exemption

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the benefit. The question posed and decided was indeed different. The said decision, which we have already discussed supra, however, indicates that while construing an exemption notification, the Court has to distinguish the conditions which require strict compliance, the non-compliance of which would render the assessee ineligible to claim exemption and those which require substantial compliance to be entitled for exemption. We are pointing out this aspect to dispel any doubt about the legal position as explored in this decision. As already concluded in para 50 above, we may reiterate that we are only concerned in this case with a situation where there is ambiguity in an exemption notification or exemption clause, in which event the benefit of such ambiguity cannot be extended to the subject/assessee by applying the principle that an obscure and/or ambiguity or doubtful fiscal statute must receive a construction favouring the assessee.

Both the situations are different and while considering an exemption notification, the distinction cannot be ignored.

52. To sum up, we answer the reference holding as under -

(1) Exemption notification should be interpreted strictly; the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification.

(2) When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue.

(3) The ratio in **Sun Export case** (supra) is not correct and all the decisions which took similar view as in **Sun Export Case** (supra) stands over-ruled.

53. The instant civil appeal may now be placed before appropriate Bench for considering the case on merits

after obtaining orders from the Hon'ble Chief Justice of
India.

.....J.
(Ranjan Gogoi)

.....J.
(N.V. Ramana)

.....J.
(R. Banumathi)

.....J.
(Mohan M. Shantanagoudar)

.....J.
(S. Abdul Nazeer)

New Delhi
July 30, 2018