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*Analysing developments impacting business*

### INTERPRETATION OF EXEMPTION NOTIFICATIONS IN TAXATION STATUTES: SUPREME COURT SETTLES THE PRINCIPLE

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#### Introduction

On 30 July 2018, the constitution bench of the Supreme Court of India (Court), in Commissioner of Customs (Import), Mumbai (Appellant) v Dilip Kumar and Company & Ors. (Respondent) [Civil Appeal No. 3327 OF 2007], has pronounced the principles for the interpretation of exemption notifications in taxation statutes.

#### Dispute

The dispute concerned the classification of goods, namely Vitamin - E50 powder (feed grade) under the Customs Tariff Act, 1975. The Respondents contended that they were eligible for a concessional rate of duty under Notification No. 20/99-Cus dated 28 February 1999 (Notification) on the basis of the wider interpretation given to the description of goods specified therein. However, the Appellant was of the view that the concession claimed by the respondent was incorrect since the imported product in question was not covered under the Notification.

There were conflicting judgements of the Supreme Court on the interpretation of taxation statutes and exemption notification in Sun Export Corporation, Bombay v Collector of Customs [(1997) 6 SCC 564] (Sun Export Case) and Collector of Customs and Central Excise, Guntur and Ors. v Surendra Cotton Oil Mills and Fertilizers Co. and Ors. [2001 (1) SCC 578] (Surendra Cotton Case). Therefore, it became necessary for a larger bench of the Court to review these conflicting judgements.

#### Key Highlights of the Order

- The Respondents relied on the judgment given by a three-judge bench of the Court in the Sun Export Case, wherein it was held that an exemption notification can be construed liberally. The Court observed that the decision rendered in the Sun Export Case was an outlier decision and in conflict with the correct position of law. As such, the Sun Export Case was overruled.
- The Court went on to discuss the nuances of liberal and strict interpretations of an exemption notification. In this regard, the Court held that a strict interpretation should be accorded when the issue relates to eligibility of an exemption claimed by an assessee. The onus of proving this eligibility rests on the assessee. The

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Court further stated that once this threshold is crossed, and if an ambiguity persists, then a liberal interpretation in favour of the assessee should be adopted.

## Comment

This decision is of primary importance as it settles the position of law in respect of interpretation of exemption notifications. While taxation statutes have always been subject to strict interpretation, the exemption notifications were given a far more liberal approach and many assesseees relied on the ruling in the Sun Exports Case for construing an exemption notification liberally. This gave rise to a double standard when interpreting taxing provisions vis-à-vis exemption notifications. The present judgement clearly lays down the guiding principles that are to be followed when interpreting an exemption notification and puts an end to the confusion created by conflicting decisions. The current decision of the Court will impact the pending cases wherein the decision of the Sun Exports Case was followed.

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