

UNION OF INDIA AND ANR.

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v.

M/S. SH. RAM RAYONS

FEBRUARY 12, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

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Imports (Control) Order, 1955 :

Clause 4(2)—Fees on application of licence—Application made for grant of supplementary licence for import of certain items—Deposit of fees—Due to change of policy licence could not be issued—Writ Petition filed for direction to refund the amount—High Court directing refund—Held : A reading of the clause clearly shows that no fee is refundable under any circumstances except under certain conditions—In the instant case High Court was not justified in directing refund of the amount.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3635 of 1996.

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From the Judgment and Order dated 3.3.94 of the Delhi High Court in C.W.P. No. 4128 of 1993.

D.P. Gupta, Solicitor General, A. Subba Rao and Ms. Sushma Suri for the Appellants.

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P.N. Puri and Atul Nanda for the Respondents.

The following Order of the Court was delivered :

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Leave granted.

We have heard the counsel on both sides.

This appeal by special leave arises from the order made on March 3, 1994 by the Division Bench of the High Court of Delhi in W.P. No. 4128/93. Admittedly, the respondent made an application for grant of the supplementary licence for import of certain items and deposited a sum of Rs. 1 lakh. The Licensing Authority had recommended the name of the appellant but in the meantime policy had been changed on July 4, 1991. Consequently, the licence could not be issued. The respondent filed the

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- A writ petition on August 28, 1993 for a direction to refund the amount. The High Court in the impugned order accordingly directed the refund with interest at 12% from March 4, 1992. Thus, this appeal by special leave.

Clause 4(2) of Imports (Control) Order 1955 reads as under :

- B "4. Fees on Application of Licence : (1) Every application for a licence shall be made to the appropriate licensing authority.

(2) A fee as indicated in Schedule III shall be paid in respect of every application in the manner provided in the said Schedule:

- C Provided that no fee shall be payable in respect of any application when made by -

(a) the Central Government, A State Government or any department or office of the Central Government or State Government;

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(b) any local authority for the import of goods required for its own consumption;

(c) any educational, charitable or missionary institution for the import of goods required for its own consumption;

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The fees once received will not be refunded under any circumstances except :

(i) where the fee has been deposited in excess of the prescribed scale;

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(ii) where the fee has been deposited but no application has been made.

(iii) where the fee has been deposited in error but the applicant is exempt from payment of licence fee.

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Note : Fees paid in respect of Appeals made to the Chief Controller of imports and Exports and its Regional Licensing Authorities shall not be refunded under any circumstances."

- H A reading thereof clearly indicates that no fee shall be refundable

under any circumstance has been except where the fee has been deposited A
in excess of the prescribed scale; where the fee has been deposited but no
application has been made, in other words, though deposit of the amount
was made but no application has been submitted for consideration; or
where the fees has been deposited in error but the applicant is exempt from
payment of the licence fee. Under these circumstances, the High Court was B
not justified in directing refund of the amount.

The appeal is accordingly allowed. No costs.

G.N.

Appeal allowed.