IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2747 OF 2005

Godrej Industries Ltd. and Anr. } Petitioners
versus
The State of Maharashtra and Ors. } Respondents

Mr. Prakash Shah with Mr. Gajendra Jain and Mr. Jas Sanghavi, Ms. Anjali Hirawat i/b. M/s. PDS Legal for the Petitioner.

Mr. G. W. Mattos-AGP for Respondent Nos. 1 and 2.

CORAM :- S. C. DHARMADHIKARI &
SUNIL P. DESHMUKH, JJ.

DATED :- FEBRUARY 20, 2015

ORAL ORDER:- (Per Sunil P. Deshmukh, J.)

This Petition concerns excise duty payable under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, during the period from 2nd January, 1982 to 10th November, 1982, when the Petitioner used to use alcohol in its products. Demand had been raised pursuant to an order passed by the Superintendent of Excise, referring it to as approved prices. According to the Petitioner, this action by the Department was improper, unauthorised and incompatible with the practice and legal provisions and as such, dispute arose. Order-in-original has been passed by the Superintendent confirming the demand.

So was the case at the appellate stage. After hearing the parties, it appears that the excise duty is payable on concerned products under Medicinal and Toilet Preparations (Excise Duties) Act, 1955, on value as would be determinable in accordance with section 4 of the Central Excise Act, 1944 on ad-valorem basis.

2) The real dispute is about deductions on account of disallowance of post-manufacturing-removal expenses from the price to arrive at the value of the goods manufactured by the Petitioner for the purpose of assessment for levy of duty. The Petitioners had claimed various deductions *inter alia,* in respect of octroi, turn over tax, additional tax and CST, interest on stock receivable, insurance, freight and secondary packing.

3) It appears that the Hon'ble Supreme Court in the case of *Government of India vs. Madras Factory Ltd.* reported in **1995 (77) ELT 433** has allowed certain deductions as post-removal expenses except interest on stock (inventory).

4) The Petitioner has resiled to situation emerging from aforesaid judgment in respect of deductions from price towards post removal expenses for valuation to duty liability and has calculated

amount, pursuant to which, it appears it is liable to and has accepted liability to pay the duty to the tune of Rs.17,62,160.76. As such, the Petitioner would be entitled to refund of Rs.6,83,479.43. The Petitioner had deposited an amount of Rs.24,45,640.24.

5) The respondent is not in a position to dispute correctness of the calculations vis-a-vis application of aforesaid ruling. As such the Respondents would not be able to claim the amount of Rs.6,83,480/- from the Petitioner. Taking into account the aforesaid position, the Petition stands allowed partly. Thus, the Respondents shall refund to the Petitioners aforesaid sum of Rs.6,83,480.00 as expeditiously as possible, preferably within a period of 10 weeks from today.

6) Rule is partly made absolute in the aforesaid terms. No costs. The Petition stands disposed of accordingly.

(SUNIL P. DESHMUKH, J.) **(S.C.DHARMADHIKARI, J.)**