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**IN THE COMMERCIAL TAX TRIBUNAL
UTTARAKHAND, DEHRADUN**

Present: Malik Mazhar Sultan, H.J.S President.

Vipin Chandra,Member.

Second Appeal No. 58/2024

**Assessment year – 2009-2010,
First Appeal No- 398/2017,
Amount of disputed tax – 4,67,824/-**

And

Second Appeal No. 59/2024

**Assessment year – 2010-2011,
First Appeal No- 394/2017,
Amount of disputed tax – 8,89,085/-**

And

Second Appeal No. 60/2024

**Assessment year – 2011-2012,
First Appeal No- 399/2017,
Amount of disputed tax – 16,42,080/-**

And

Second Appeal No. 61/2024

**Assessment year – 2013-2014,
First Appeal No- 335/2020,
Amount of disputed tax – 27,05,663/-**

And

Second Appeal No. 62/2024

**Assessment year – 2014-2015,
First Appeal No- 249/2019,
Amount of disputed tax – 37,77,799/-**

And

Second Appeal No. 63/2024

**Assessment year – 2015-2016,
First Appeal No- 278/2019,
Amount of disputed tax – 30,44,563/-**

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And

Second Appeal No. 64/2024

**Assessment year – 2016-2017,
First Appeal No- 739/2021,
Amount of disputed tax – 34,78,598/-**

And

Second Appeal No. 68/2024

**Assessment year – 2012-2013,
First Appeal No- 336/2020,
Amount of disputed tax – 22,59,921/-**

Commissioner- Commercial Tax, Uttarakhand, Dehradun. Appellant.

Versus

M/s. Pidilite Industries Ltd, Mohebewala, Dehradun. Respondent.

For Appellant: Shri Bhuwan Chandra Pandey

State-Representative.

For Respondent: Shri K.N. Sharma and Praveen Rastogi

Ld. Advocate.

J U D G M E N T

Malik Mazhar Sultan,

The Only question in all the above mentioned appeals is as regard the rate of tax on the sale of impugned product, that is Dr. Fixit Pidicrete URP (SBR Latex) and Dr. Fixit Super Latex (SBR Latex). As the common question of Law is involved in all the appeals so in view of brevity they are being decided by the common Judgement.

2. Facts necessary for the disposal of appeals are that the respondent is a limited company and carry out the business of selling and purchasing the Dr. Fixit Pidicrete URP (SBR Latex) and Dr. Fixit Super Latex (SBR Latex) and certain other commodities. On the Sale of Dr. Fixit Pidicrete URP (SBR Latex) and Dr. Fixit Super Latex (SBR Latex) in the State of Uttarakhand the respondent admitted the tax liability at the rate of 5% under entry 96 of

Schedule II B of U.K. Vat Act. The respondent company was assessed in different years. Holding the impugned product (Dr. Fixit Pidicrete URP (SBR Latex) and Dr. Fixit Super Latex (SBR Latex)) as unclassified a liability of 13.5% of tax was imposed by the assessing authority. The respondent challenged the assessment order of each financial year before the first appellate authority. By means of impugned order dated 29.04.2024 first appeals were allowed by the first appellate authority. The first appellate authority recognized the claim of the respondent (assessee). Referring to Article 348(3) of the constitution and Case Laws propounded by the Hon'ble Supreme Court in Park Leather Industries Pvt. Ltd. Vs. State of U.P. and others (2001), 3 SCC 135 and Propounded by Hon'ble High Court of Uttarakhand in Smt. Shahjahan Baigam Vs. District Magistrate Udham Singh Nagar, Special Appeal No. 593/2017 it was held by the first appellate authority that by virtue of Art. 348 of the Constitution English version of every Act is published simultaneously. If there is any conflict between two the English version would prevail. It is further held by the first appellate authority that the English version of entry 96 describe the term "Latex" which includes the natural rubber Latex and synthetic/artificial rubber Latex. The impugned product is undisputedly Synthetic Latex hence covered under Entry 96 of Schedule II B of the Act. Consequently, the demand raised by the assessing authority was dropped.

3. Impugned orders dated 29.04.2024 passed by the first appellate authority were challenged in the above mentioned Second appeals filed by the revenue department through Commissioner of Trade Tax. Contesting the demand dropped against the respondent and supporting the order of assessing authority passed under section 25(7) of the Act. these appeals are filed on the grounds that the impugned Judgement is based on wrong interpretation of Law. It is further stated that according to Hindi version of entry 96 of Schedule II B only the Latex which is procured by the rubber plant is meant to include in this entry. The impugned product is not natural Latex / rubber but it is infact Synthetic Latex / rubber based commodity. In view of the fact that the impugned product is used as a water proofing and bonding agent it can logically be deduced that the product in question is chemical composition of different commodities not the commodity intended to be included in the concerned entry.

4. Heard the Ld. State Representative and Ld. Counsel for the respondent and perused the record.

5. Supporting the order of assessing authority passed under Section 25(7) of the Act Ld. State representative reiterated the grounds mentioned in the memo of appeal. Challenging the impugned order it is vehemently argued on behalf of appellant that the first appellate authority has wrongly interpreted the concerned entry. There is no conflict between Hindi version and English version. It is amply clear from the Hindi version of entry 96 that the term “Latex” in English version is restricted only to the natural latex procured from rubber plant naturally. It is further argued that the impugned product is chemical composition of different goods, it is not even the Synthetic Latex. Even if it is assumed as Synthetic latex nevertheless it is not covered under entry 96 of Schedule II B of the Act. Entry 96 is obviously meant for natural Latex only.

6. Adversely, Ld. Counsel for the respondent supported the impugned order and argued that entry 96 of Schedule IIB can not be restricted merely in reference of natural Latex. It is further argued that there is conflict between Hindi version and English version of entry 96 of Schedule II B. Relying on M/s Park Leather Industries Pvt. Ltd. Vs. State of U.P. and others (2001), 3 SCC 135 and Smt. Shahjahan Baigam Vs. District Magistrate Udham Singh Nagar & others Special Appeal No. 593/2017 it was argued on behalf of the respondent that in the event of any conflict between English version and Hindi version of any Act the English version would prevail. It is vehemently argued that in the English version the term “Latex” is described which is sufficient to include both the natural latex and synthetic latex. The impugned product is Synthetic Latex which is squarely covered under the concerned entry. The

concerned entry does not differentiate between natural and synthetic rubber nor does it exclude the Synthetic Latex.

7. On the rival contentions of the parties the points of determination involved in these appeals are as under:-

1. Whether there is any conflict or ambiguity between Hindi Version and English Version of entry 96 of Schedule II B of the Act.

2. Whether the impugned product that is, Dr. Fixit Pidicrete URP (SBR Latex) and Dr. Fixit Super Latex (SBR Latex) is covered under entry 96 of Schedule II B of the Act.

8. In this matter the following facts are undisputed-

(a) The product in question Dr. Fixit Pidicrete URP (SBR Latex) and Dr. Fixit Super Latex (SBR Latex) is Synthetic rubber/Latex not procured from the rubber plant.

(b) The impugned product is Synthetic polymer derived from styrene and butadiene. It is used in a variety of application including as an additive in concrete, mortar and grout as well as in coating, adhesive and sealants. It is used as waterproofing and bonding agent.

Disposal of issue No. 1.

The first question to be addressed is that whether there is any conflict or ambiguity between Hindi Version and English Version of entry 96 of Schedule II B of the Act.

Entry 96 of Schedule II B in Hindi and English is reproduced as under .

96	रबड़, कच्चा रबड़, रबड़ के पौधे का दूध (लैटेक्स) तथा सूखी पसलीदार	5 प्रतिशत	अनुसूची II (ख) (96)
	Rubber, raw rubber, latex, dry ribbed	5%	Schedule II B(96)

9. In this regard the contention of Ld. State representative is that there is no conflict or ambiguity between Hindi Version and English Version of the said entry. It is argued by him that if we go through the Hindi Version and English version of the concerned entry it can reasonably, aptly, legally and safely be concluded that the term “Latex” in English Version which is also used in bracket in Hindi Version has restricted meaning to include therein only the natural Latex derived from rubber tree, that is “रबड़ के पौधे का दूध”.

10. On the other hand Ld. Counsel for the respondent argued that there is conflict between Hindi Version and English version of the said entry. Relying on the above mention Case Laws of Hon’ble Supreme Court and Hon’ble High Court of Uttarakhand propounded in M/s Park Leather Industries Pvt. Ltd case and Smt. Shahjahan Baigam Case respectively it was argued on behalf of respondent that English Version of entry would prevail. It is further argued that in English Version the term “Latex” is used, which is sufficient to include the natural Latex/rubber derived from tree as well as “Synthetic Latex” made by emulsion polymerization technique. It is further argued that the concerned entry does not differentiate between natural and Synthetic Latex nor does it exclude Synthetic Latex.

11. After going through the concerned entry we are of the considered opinion that the term “लैटेक्स” is also used in bracket in Hindi Version following the term “रबड़ के पौधे का दूध”. To root out any conflict or ambiguity the term (लैटेक्स) was intentionally used by the legislature to include only the natural rubber/Latex which is procured from the rubber plant and to exclude any kind of Synthetic Latex. It is thus very aptly clear that the intention of legislature was to exclude Synthetic Latex from the concerned entry. Had there been only the term “रबड़ के पौधे का दूध” in concerned entry in Hindi Version without mentioning (लैटेक्स) in bracket it could have been taken up as conflict between both version. In that event only the English Version could have been predominance. But in the instant matter the situation is different. In Hindi version the term “रबड़ के पौधे का दूध” is followed by the term (लैटेक्स) in bracket, which in itself made the thing very much clear to include in this entry only the natural Latex. It is thus clear that the term Latex used in both the Hindi Version and English version is restricted only to include the natural Latex procured from rubber plant.

12. Ld. First appellate authority has wrongly come to the conclusion that there is conflict between Hindi Version and English version of the said entry and in this event English Version would prevail. It has further been held wrongly that in English Version the term “Latex” is used which includes both the natural and synthetic Latex. In view of the above discussion we are of the considered opinion that Ld. First appellate authority failed to interpret the concerned entry in true sense. We hold that the intention of legislature is very much clear to include the natural Latex only. As there is infact no conflict or ambiguity between the Hindi Version and English version of the said entry so in the instant matter there is no need to go into the question of applicability of Hindi Version or English version.

13. On the basis of above we are of the considered opinion that Hindi Version of Entry 96 of Schedule II B of the Act is apparently distinguishable to include the natural Latex (रबड़ के पौधे का दूध). English Version of the said entry mentioned the term “Latex” which is restricted only to natural Latex. There is infact no conflict or ambiguity between Hindi Version and the English Version of the said entry. This issue is disposed of accordingly.

Disposal of issue No. 2.

The another question involved in this matter is that whether the commodity in question that is, Dr. Fixit Pidicrete URP (SBR Latex) and Dr. Fixit Super Latex (SBR Latex) is covered under entry 96 of Schedule II B of the Act.

14. In this respect it was argued on behalf of the appellant that being Synthetic Latex, the product in question is not covered under the said entry because the entry is exclusively meant to include the natural Latex procured from the milk of rubber plant. On the other hand Ld. Counsel for the respondent argued that English Version of the said entry mentioned the term “Latex” which is sufficient to include the Synthetic Latex as well as natural Latex. It is further argued that the product in question is synthetic Latex which is squarely covered under the said entry.

15. Discussing the Hindi Version and English version of the concerned entry Ld. First appellate authority came to the conclusion that there is conflict in Hindi Version and English version of the concerned entry. It was further held

that in Case of any conflict between the Hindi Version and English version, the English Version would prevail. Ld. First appellate authority concluded that in the English Version the term used is “Latex” which includes natural Latex as well as Synthetic Latex. The product in question is undisputedly Synthetic Latex which is squarely covered under the said entry taxable at the rate of 4% of tax.

16. We are not in agreement with the above mentioned conclusion of the first appellate authority as regard the taxability of the impugned product. As has been discussed above in the body of this Judgement that there is no conflict between Hindi Version and English version of the concerned entry so there is no need to explore the applicability of English version or Hindi Version. Careful perusal of the concerned entry in both languages reveals that the entry is meant to cover only the natural Latex procured from the rubber tree. The intention of the legislature is very much clear to include the natural Latex only. It is pertinent to mention here that in the Case Law relied upon by the respondent propounded by the Hon’ble Supreme Court in M/s Park Leather Industries Pvt. Ltd. it was observed by the Hon’ble Supreme Court in the Last Para of Judgement that **undoubtedly if there is conflict between the two than the English Version would prevail. However, if there is no conflict then one can always have assistance of the Hindi Version in order to find out whether the word used in English includes a particular item or not.** It is established that there is no conflict in both the version. Hindi Version of the said entry used the word “रबड़ के पौधे का दूध (लैटेक्स)” English Version used the term “Latex”. A careful perusal of the said entry reveals that the intention of legislature was to include only the natural Latex in the said entry. The entry in Hindi Language manifestly made it clear that the entry in English that is “Latex” is restricted to include only the natural Latex. Ld. First appellate authority has wrongly concluded that there is conflict between both Version and the term “Latex” will include the Synthetic Latex as well. We are of the considered opinion that the commodity in question is not covered under entry 96 of the Schedule II B. The same is unclassified and taxable as such at the rate of 13.5% of tax. This issue is decided accordingly.

17. On the basis of above discussion we are of the considered opinion that the assessing officer was absolutely justified in holding that the commodity in

question that is Dr. Fixit Pidicrete URP (SBR Latex) and Dr. Fixit Super Latex (SBR Latex) is not covered under entry 96 of the schedule II B of the Act. The first appellate authority has materially erred in holding that being Synthetic Latex the above mentioned product comes within the purview of the said entry because the said entry does not differentiate between natural and Synthetic Latex. Accordingly, the impugned order passed by Ld. first appellate authority is not sustainable and liable to be set aside. Consequently, the instant appeals deserve to be allowed. This issue is decided accordingly.

ORDER

The above mentioned appeals bearing No. 58/2024, 59/2024, 60/2024, 61/2024, 62/2024, 63/2024, 64/2024 and 68/2024 presented by the department through Commissioner are allowed and the impugned orders/Judgements dated 29.04.2024 passed in first appeals no. 398/2017, 394/2017, 399/2017, 335/2020, 249/2019, 278/2019, 739/2021 and 336/2020 are hereby set aside. Let the copy of this Judgement be placed in the files of second appeals no. 59/2024, 60/2024, 61/2024, 62/2024, 63/2024, 64/2024 and 68/2024.

Let the file be consigned.

S/d- 05.06.2025

(Vipin Chandra)

Member,

Commercial Tax Tribunal,
Uttarakhand, Haldwani

S/d- 05.06.2025

(Malik Mazhar Sultan)

President,

Commercial Tax Tribunal,
Uttarakhand, Dehradun

Dated : 5 June,2025 .



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