

GIB/GJ/REAL PRINCE/04-03-2020/HC-117**High Court Category :** REFUND**State :** Gujarat**Order No.:** GIB/GJ/REAL PRINCE/04-03-2020/HC-117**Name of Entry :**

REAL PRINCE SPINTEX PVT. LTD. VERSUS UNION OF INDIA

Date : 04-03-2020**Breif Issue :****Fact of the Case :**

The writ applicant is a private limited company engaged in the business of trading of cotton yarn and cotton waste. The writ applicants are registered under the Central/Gujarat/Integrated Goods and Services Tax Act, 2017 (for short 'the GST Act').

They are the exporters of the cotton Yarn and waste and doing export without payment of IGST under Letter of Undertaking.

According to the writ applicants, under a misconception of law, they selected the option of export without payment of tax while filing the shipping bills though the writ applicants, at the relevant point of time, had no letter of undertaking, and simultaneously, also claimed higher rate of duty drawback under the Customs Act, 1962.

It is the case of the writ-applicants that since the clearing and forwarding agent had erroneously selected the option of export without payment of tax while filing the shipping bill, the amount of the IGST paid was shown as 'Nil' in the shipping bill. In such circumstances, the customs authorities denied to grant refund of the IGST paid on exports by the writ-applicants

Refer Case:- M/s.Amit Cotton Industries v/s PrincipalCommissioner of Customs**(GIB/GUJ/AMIT COTTON/27-06-2019/HC-80)****Decision of Advance Ruling Authority :****Decision:**

Identical issue decided in the case of M/S AMIT COTTON INDUSTRIES THROUGH PARTNER, VELJIBHAI VIRJIBHAI RANIPA VERSUS PRINCIPAL COMMISSIONER OF CUSTOMS , where it was held that the refund of the IGST paid on the exports cannot be denied on the ground that the higher rate of duty drawback is claimed.

In view of the aforesaid, no further adjudication is necessary in the present case.

The respondents are directed to immediately sanction the refund of the IGST paid with regard to the exported goods, i.e. “zero rated supplies”, with 7% simple interest from the date of shipping bill till the date of actual refund. The refund shall be granted after deducting the differential amount of the duty drawback for the period between July and September, 2017 - application allowed.