

(1970) 07 CAL CK 0001**Calcutta High Court****Case No:** Civil Rule No. 2091-W of 1966

Bata Shoe Company Pvt. Ltd.

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision: July 23, 1970**Citation:** (1978) 2 ELT 501**Hon'ble Judges:** P.K. Banerjee, J**Bench:** Single Bench**Judgement**

P.K. Banerjee, J.

In this Rule, the petitioner challenged an order of assessment passed by the respondents and prays for quashing and setting aside the demand dated 24th November, 1964, and the appellate order dated 14th March, 1966, and also for refund of a sum of Rs. 73,846.62 paise alleged to have been illegally levied from the petitioner. It appears that a show cause notice was issued on the petitioner calling upon them to show cause why the "Toe Cap Sheet Solution" should not be treated as "N.C. Lacquer" and on that basis excise duty should not be levied. It appears that in levying the excise duty, the respondents considered the Chemical Examiner's report without giving a copy of that report to the petitioners. It is agreed that principles of natural justice have not been followed in coming to a decision in the matter regarding the manufacture of "Toe Cap Solution". In that view of the matter, the demand dated 24th November, 1964, and the appellate order dated 14th March, 1966, must be set aside and quashed. The respondents are, however, given liberty to proceed against the petitioner again with the show cause notice dated 4th May, 1966, in accordance with law and may dispose of the same within one year from to-day. The petitioner will be at liberty to reply to the said show cause notice within two months from today. If the proceeding is not disposed of within one year or within such reasonable time the respondents must refund the said sum of Rs. 73,846.62 paise to the petitioner.

2. If the petitioner writes to the respondents for-retesting of the sample, liberty is given to the respondents to do it in accordance with law.

3. I, however, make it clear that I do not express any opinion on any of the points raised in this petition and all the points raised in this petition are kept open.

The Rule is disposed of accordingly.

There will be no order as to costs.