(2003) 11 SC CK 0006

In the Supreme Court Of India

Case No : Civil Appeal No.521 Of 1998

Poona Rolling Mills — APPELLANT

Vs

Collector of Central Excise, Pune — RESPONDENT

Date of Decision : 18-11-2003

Acts Referred:

Citation : (2003) 111 ECR 806 : (2003) 158 ELT 558

Hon'ble Judges : S. Rajendra Babu, J;G. P. Mathur, J

Bench : Division Bench

Advocate : Nisha Bagchi, P. Manish and Indu Malhotra, for the Appellant; L. Nageshwar Rao, ASG, T.V. Ratnam and B. Krishna Prasad, for the Respondent

Final Decision : Partly Allowed

Judgement

1. The appellant is engaged in manufacture of M.S. Round Bars by using old and re-rollable cut pieces of bars, plates, angles, etc., purchased from the open market or directly from the manufacturers or from ship breakers.

2. The Revenue proceeded on the basis that these manufactured products are exempt from payment of duty under the Central Excises and Salt Act, 1944 but subsequently, initiated proceedings stating that the appellant manufactured iron and steel products from re-rollable scrap, bar scrap, M.S. Plate cutting, M.S. Scrap Plate, angles, etc., M.S. Round Bar Scrap, cut of steel Iron Plate had neither obtained licence nor paid duty, nor followed established procedure.

3. The appellant contended that the raw material for its manufacture is not waste and scrap of the iron and steel which is fit only for recovery of metal or for use in the manufacture of chemicals but are re-rollable, when processed to a specific temperature become a rod and lose identity and, thereafter, are passed through re-rollers for getting desired shape. Therefore, it is submitted that the inputs used by the appellant are re-rollable material and not scrap. The case put forth by the appellant was not accepted by any of the authorities. The matter was carried in appeal to the Tribunal. The Tribunal without adverting to the

contentions decided the matter.

4. In the circumstances, we set aside the order made by the Tribunal and remit the matter to the Tribunal to be considered afresh in accordance with law. It is made clear that all contentions raised by the appellant are kept open for consideration. The deposits that have been made by the appellant shall be subject to the final order to be passed by the Tribunal. Being an old appeal, let this matter be heard and disposed of by the Tribunal within a period of four months.

The appeal is allowed accordingly.

