
(1981) 02 DEL CK 0017

In the Delhi High Court

Case No : Civil Writ Appeal No. 1338 of 1975

Star Paper Mills

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 06-02-1981

Acts Referred:

Citation : (1981) 8 ELT 577 : (1981) ILR Delhi 600

Hon'ble Judges : S. Ranganathan, J; Leila Seth, J

Bench : Division Bench

Advocate : Daljit Singh, J.S. Kapil and C.L. Choudhry, for the Appellant;

Judgement

S. Ranganathan, J.

(1) By this writ petition the assessed company seeks the issue of a writ of certiorari quashing two notices dated 3rd November, 1970 and 16th November, 1970 issued by the fourth respondent the order of the fourth respondent dated 1st November, 1970, a notice dated 23rd July, 1973 issued by the second respondent u/s 36(2) of the Central Excises and Salt Act, 1944 and finally an order of the second respondent dated 25th July, 1975 passed under the above section. The writ petition has been filed in the following circumstances.

(2) The petitioner is a company carrying on business in the manufacture of various types of writing and printing paper with a factory at Saharanpur. Excise duty on paper was for the first time levied in 1955 and different rates of duties were prescribed for different types of paper. The paper produced by the assess was packed in reams or in the form of rolls. Naturally when the goods were packed in reams they had to be wrapped up in wrapping paper which was also the subject matter of excise levy. So far as the rolls were concerned they were actually weighed as and when they were removed from the factory and duty was paid on the actual weight. There is no dispute about the paper so manufactured and removed by the assesses. We are concerned in this writ petition only with the paper which was produced and packed in reams and were duly wrapped up in

packing paper before they were removed from the factory. The controversy between the parties is as to whether the assessed has paid the excise duty livable in respect of the wrapping paper.

(3) Soon after excise duty on paper was introduced the Central Excise Collector at Allahabad passed a standing order in pursuance of the instructions of the Central Board of Indirect Taxes in August, 1956. This standing order provided for assessment of duty on paper and paper-board either on the basis of actual weight or on the basis of standard nominal weight. In respect of the unit packages not marked with the nominal weight duty was levied on the basis of actual weight. But where paper was packed in reams and the standard nominal weight of paper was marked on the ream covers the duty was assessed on the basis of the standard nominal weight so marked. The department naturally reserved for itself the right of checking the correctness of the standard nominal weight thus marked on the paper. The procedure prescribed was that 1 per cent of unit packings produced on each day would be rest weighed and 10 per cent of the packages would be checked and weighed. If the variation found on check weighment did not exceed 1 per cent to 1-1/2 per cent as prescribed it was taken that the standard nominal weight indicated by the assessed was not wrong. However, if the average of 1 per cent test weighment showed excess over the tolerance limits referred to above, the percentage of weighment was to be increased to 10 per cent. If as a result of the 10 per cent weighment the average variation exceeded the limits prescribed, the entire day's production could be subjected to weighment, the goods being stored separately for clearance on the basis of actual weight.

(4) The assessed was assessed to duty for the first instance on the basis of the above "instructions. It may be mentioned here that initially wrapping paper was subjected to duty at a lower rate than the writing and printing paper. However, this was subsequently modified and with effect from May, 1961 both printing and writing paper as well as the packing and wrapping paper were charged to duty at the same rate as was appropriate to the paper packed therein. It may be mentioned that in view of this the department issued instructions that when wrapping paper was manufactured and deposited into the approved store rooms and intended to be issued to the finishing Section for packing purposes, no duty would be levied in respect thereof, the idea being that the weight of packing paper would also be subject to duty at the time when the paper eventually manufactured was removed duly packed in such packing or wrapping paper.

(5) Between 1956 and right up to September, 1969 the assessed cleared its goods for the purpose of extra duty in accordance with the above procedure. No duty was paid in the initial stage on packing or wrapping paper but on the manufactured paper duly packed duty was paid on the nominal weight in accordance with the standing order above referred to. It may also be mentioned that during this period there was a resident inspector of the excise department who was posted at the factory premises and who assessed all the paper in

accordance with the above procedure. In August, 1969 the Central Government issued a notification specifying the goods in question, inter alia, as excisable goods to which the provisions, of Chapter VII a of the Central Excise Rules, 1944 would apply. This meant that after 1st August, 1969 on which date the above notification came into force there was no resident inspector on the premises of the assessed and it was expected to clear the goods on its own under what has been described as "self removal procedure". Under this modified procedure the assess removed its goods from October, 1969 to September. 1970 on the same basis as has been indicated above,

(6) On 3rd November, 1970 the fifth respondent issued a notice purporting to be under Rule 10 read with Rule 1730 of the "Central Excise Rules, 1944. This notice stated that it appeared to the fifth respondent that duty on packing and wrapping paper used for packing reams inside the Mill had been charged to duty at mill rates whereas a duty of Rs. 1,48,985.15 was livable in respect thereof. According to the notice this demand was in respect of the period October, 1969 to September, 1970. He called upon the assesses to shew cause to the Assistant Collector of Central Excise within a time prescribed why it should not be called upon to pay the above sum of Rs. 1,48,985.15. In the notice the grounds, on which the above mentioned amount is proposed to be recovered was set out as under :

"The audit party while inspecting the records of the factory in 1968 pointed out a continuous loss of revenue on account of packing and wrapping paper used in packing of reams escaping the Revenue not as its weight is not included in the weight of the ream so cleared. Paper is assessed at M/s. Star Paper Mills on the nominal weight."

The above notice was soon followed by another notice dated 16th November, 1970 from the fifth respondent. This notice, however, purported to be under Rule 10A of the Central Excise Rules. 1944 and it called upon the assessed to show cause why it should not be required to pay a sum of Rs. 9,62,476.57 for the same reasons as mentioned above. According to the enclosures to this notice the demand made was in respect of the paper cleared by the assessed between January, 1963 and September, 1969.

(7) The assessed showed the cause before the Assistant Collector both by way of written and personal representations. However, on 1st November, 1971 the Assistant Collector passed an order recording his decision that "the factory is responsible for nonliving of duty on wrapper from January, 1963 to September, 1969 amounting to Rs. 9,62,476.57 and from October, 1969 to September. 1970 amounting to Rs. 1,48,985.15" and Therefore demanded the above duties "under Rule 10-A of the Central Excise Rules, 1944". The Assistant Collector observed in his order that the paper had been cleared on the basis of the nominal weight. The nominal weight as marked on the wrapping paper contained only the weight of the writing or printing paper and did not include the weight of the wrapping paper. For instance, he pointed out, the weight of 500 sheets of writing paper of

size 45.5 X 56 cms. was 6.6 Kgs. This ream of 500 sheets was packed in a wrapping sheet of size 91.5X117 cms the weight, of which came to 0.1 Kg. Thus, the total nominal weight of one ream of paper duly packed would work out to 6.7 Kg. But the nominal weight declared on the packing was only 6.6 Kg. Thus, he pointed out, there was a continuous and systematic loss of revenue for the simple reason that the nominal weight declared by the assess did not also include the weight of the wrapping paper. On the other hand. on behalf of the assessed, it had been submitted that the weight of the wrapping paper was also included in the weight of the reams as indicated on the top of the package. It was pointed out that in terms of international trade practice the nomenclature of ream was always taken as packed with wrapper. It was pointed out that specifications by the Indian Standards Institution also indicated that the weight of wrapper should be included in the ream weight of paper. The party further state that to abide by the requirements of Indian Standards Institution, they always kept a margin in the weight of printing and writing paper so that the weight of the wrapper used could be adjusted against the margin. Statements were filed showing the difference between the nominal and actual weights and it was pointed out that the actual weight was generally lower than the nominal weight. It was, thus, claimed on behalf of the assessed that actually it had paid more duty than was properly due from it. The Assistant Collector rejected the contention of the assessed that it kept an adequate margin in the actual weight of printing and writing paper so as to adjust the weight of the wrapper. There was also a plea of limitation raised by the assessed but this was also rejected by the Assistant Collector on the ground that this was a clear case in which the factory had mis-stated the weight and this fact had been discovered by the audit party subsequent to the clearance of the goods. He help that it was a clear case of non-levy which was covered by Rule 10-A of the Central Excise Rules, 1944. He observed that after the introduction of self removal procedure on 1st August, 1968 it was clear that the factory had deliberately avoided to pay duty on the wrapping paper.

(8) The assessed preferred an appeal to the Appellate Collector which was allowed by his order dated 1st August, 1972. The Appellate. Collector came to the conclusion that there had been no escapement of duty and he based his conclusion on the following facts

(1)experiments were conducted by the Central Excise Officers from time to time to determine the actual weight of packed reams as against the declared nominal weight packed reams of these experiments showed that the nominal weight was either in excess of the actual weight or within the tolerance limit; (2) statements furnished by the appellants for the period 1968-69 to 1970-71 showed that the nominal weight had been in excess of the actual weight and the over all result for a year always reflected this position; (3) according to the Indian Standards Institution's specifications the weight in kilograms of a ream of 500 sheets of printing and writing paper had to be inclusive of weight of wrapping paper; (4) prior to the introduction of self removal procedure the clearance of paper had

always taken place after test check; and (5) there was no evidence on record to show that the paper cleared by the appellants had been in excess of the nominal weight. For the above reasons, he set aside the order passed by the Assistant Collector and allowed the appeal.

(9) On 23rd July, 1973 the Central Government issued a notice calling upon the assessed to show cause why the order of the Appellate Collector dated 1st August, 1972 should not be annulled. In the notice it was indicated that in the opinion of the Central Government the arguments of the Appellate Collector did not appear to be correct legally for the following reasons :

(1) When assessments were being made on the basis of nominal weights no evidence was required to show that the quantity of paper cleared by the assessed had been in excess of the declared nominal weight. The clearance documents showed that the nominal weights declared only contained the weights of the paper sheets and not weight of the wrapping paper; (2) The assessed admitted that in certain cases the weight found on actual weighment was more than the declared nominal weight. The plea that the difference was within the tolerance limit was not helpful when it was seen that the nominal weight did not cover the weight of the wrapping paper; (3) The Appellate Collector's interpretation of the specifications by the Indian Standards Institution was not correct. The assessed made a detailed representation and was also heard by the Central Government. But eventually by an order dated 25th July, 1975 the Central Government set aside the order of the Appellate Collector and confirmed the provisional view set out in the show cause notice as mentioned above, thus reviving the demand notices issued by the Assistant Collector. In paragraph 4 of the order in revision the contentions raised on behalf of the assessed were set out and finally the reasons for setting aside the order of the Appellate Collector were stated as follows :

"Government of India have considered the submission of the party and observe that none of the points referred to in the para 3 above has been controverted by presentation of fresh evidence. What has been now presented does not clarify that in indicating a certain weight in the clearance document the weight of wrapping paper was also indicated therein. Variation as between the nominal weight as declared and the actual weight has also been noticed. Government of India also observe that 1. S. 1. Specification Clause 5.2(c) 1848 1961 has been mis-interpreted to hold that weight in Kgs. of a ream of 500 sheets has to be inclusive of weight of wrapping paper, 5.2(c) of IS 1848 1961 relates to instructions for markings to be shown on each package as it says that "Weight in Kgs. per ream of 500 sheets including wrapping paper has to be marked on each package, i.e. the weight has to be marked on the packages and the weight should be the weight of both 500 sheets for paper in the ream and the weight of the wrapper. These instructions for marking can not be interpreted to mean that weight of wrapper should not be accounted for. And hence the reference to 5.2(c) of 1. S. 1848 1961 does not make any difference to the assessment of the goods

under the Central Excise and Salt Act, 1944."

It will be seen that though the petitioner had specifically raised plea of limitation and relied in support thereof on a decision of the Supreme Court in the case of N.B. Sanjana, Assistant Collector of Central Excise, Bombay and Others Vs. The Elphinstone Spinning and Weaving Mills Company Ltd., in respect of the demands raised for the period January, 1963 to September, 1969, the above ground has not been specifically dealt with in the order of revision.

(10) The assessed is aggrieved by this order of the Central Government and prays by filing this writ petition that the order of the Central Government should be set aside and that of the Appellate Commissioner restored. Two points have been taken by Shri Daljit Singh, learned counsel for the petitioner. His first contention is that the demands of the respondent have been raised under Rule 10-A of the Central Excise Rules, Learned counsel contends that even according to the department this was a case where there had been short levy of duty on account of a misstatement made by the assessed. If that were so, the case would be governed by Rule 10 of the Central Excise Rules and the applicability of Rule-10A would be automatically excluded. Under Rule-10 recourse for recovering the short levy of duty should be taken within three months of the original order. After the introduction of self-removal procedure this period of three months available under Rule-10 would be enlarged to one year by the application of Rule 173 J. It was, Therefore, submitted that at least in respect of the period January, 1963 to October, 1969 the demand raised would be time barred since the notices of the Superintendent were issued only on 3rd November, 1970 and 16th November, 1970 in respect of the two periods in question. The second point raised by Shri Daljit Singh. was that there was no material before the Central Government to come to the conclusion, reversing the cogent findings of the Appellate Collector, that there had been short-payment of excise duty by the assessed.

(11) So far as the first point of limitation is concerned, it has to be decided on a consideration of the provisions of Rule 10 and Rule 10-A of the Central Excises Rules as they stood at the relevant time. These Rules as they stood prior to 6th August, 1977 and after 11th October, 1969 read as follows :

"10.Recover of duties or charges short-levied erroneously refunded

(1)When duties or charges have been short-levied through inadvertence, error, collusion or misconstruction on the part of an officer, or through misstatement as to the quantity, description or value of such goods on the part of the owner, or when any such duty or charge, after having been levied, has been owing to any such cause, erroneously refunded, the proper officer may, within three months from the date on which the duty or charge was paid or adjusted in the owner's account-current, if any, or 611 from the date of making the refund, serve a notice on the person from whom such deficiency in duty or charges is or are recoverable requiring him to show cause to the Assistant Collector of Central

Excise why he should not pay the amount specified in the notice.

"10-A. Residuary powers for recovery of sums due to Government. (1) Where those Rules do not make any specific provision for the collection of any duty, or of any deficiency in duty if the duty has for any reason been short-levied, or of any other sum of any kind payable to the Central Government under the Act or these Rules, the proper officer may serve a notice on the person from whom such duty, deficiency in duty or sum is recoverable requiring him to show cause to the Assistant Collector of Central Excise why he should not pay the amount specified in the notice."

(12) According to the department there has been non-levy of duty on wrapping paper which was caused by the mis-statement made in respect of the goods by the owner who failed to include the true weight of the goods and only indicated in the clearance forms as well as on the top of the wrapping paper the weight of the paper contained inside the wrapper and not the weight of the wrapping paper. The decision of the Supreme Court in the case of N.B. Sanjana, Assistant Collector of Central Excise, Bombay and Others Vs. The Elphinstone Spinning and Weaving Mills Company Ltd., appears to be directly in point. The Supreme Court pointed out that in order to attract Rule 10 it is not necessary that some amount of duty ought to have been assessed and that amount ought to have been actually paid. This Rule applies also to a case where there has been a nil assessment in which case the entire duty later on assessed must be considered to be the duty originally short-levied. Rule 10-A, it was held, would not apply to such a case. This case meets a point sought to be made on behalf of the revenue that in the present case as the wrapping paper had not been subjected to duty at all in the first instance it would not be a case covered by Rule 10. Shri C. L. Chaudhary, learned counsel for the respondents, however sought to derive support from the later decision of the Supreme Court in Assistant Collector of Central Excise, Calcutta Division Vs. National Tobacco Co. of India Ltd., . He pointed out that in that case also as in the present case there was an allegation against the assessed that the price list which had been submitted on the basis of which duty had been originally paid had been incorrect and that in view of the decision of the Supreme Court in this case it should now be held that the provisions of Rule 10 are not applicable in the present case. We are unable to agree with the learned counsel. In the case before the Supreme Court goods had been cleared originally not on the basis of an assessment but on the basis of the procedure contained in the third proviso to Rule 9 which enabled the assessed to keep a current account with the department and clear the goods from time to time on the understanding that the accounts will be settled at intervals, the assessed making also deposits from time to time against which the duty payable on the goods cleared would be tentatively adjusted until final determination. All that the Supreme Court held in that case was that a mechanical adjustment and ostensible settlement of account by making debit entries which had been gone through in the case before them could not be equated to an assessment which was a quasi-judicial process involving due application of mind to the facts as well

as to the requirements of law. The court also found that there was no finding by the High Court or even in pleading by the petitioner to show that there had been any mis-statement or inadvertence at the original stage. Actually the leviability of duty in the circumstances of that case was a matter of controversy and was also due to a lacuna in the form which had to be supplied by the assessed before the clearance of the goods. The court, Therefore, came to the conclusion that the real reason for the alleged short-levy was neither any inadvertence on the part of the officer nor any mis-statement on the part of assessed. In the course of the judgment the scope of Rule 10 was explained in the following words :

"RULE10 should be confined to cases where the demand is being made for a short-levy caused wholly by one of the reasons given in that rule so that an assessment has to be re-opened..... Rule 10-A indicates that these are residuary powers of making demand in special circumstances not foreseen by the framers of the Act or the Rules."

In our opinion the decision of the Supreme Court in this case turned on the peculiar facts before the Supreme Court and does not in any way affect the ratio of the decision in Sanjana's case. As we have pointed out there can be no manner of doubt that the provisions of Rule 10 are attracted in the present case because the short levy if at all can be attributed only to a mis-statement made by the assessed while clearing the goods earlier in that it mentioned as the nominal weight only the weight of the packing paper and not the weight including the wrapping paper as it should have done. We have, Therefore come to the conclusion that the period of limitation for taking action for recovering the short levy would only be a period of three months in respect of clearances up to July, 1969. In respect of the period after 1st August, 1969 Rule 10 173 J. would-come into operation and the revenue would have the benefit of one year In the present case action under Rule 10 in respect of the period from January. 1963 to September, 1969 could not be taken, in November, 1970 because by that time ever the one year period prescribed in Rule 173 J had expired J is Therefore, clear that the demand for the short 9,62,476.57 was illegal. In respect of second demand, however, we find that in so far as the demand related to the month of October. 1969 it would not be in time as it was issued on 3rd November, 1970.

(13) THIS. takes us to the second point on merits of the case. We have to examine this point because in respect of a portion of a demand the assessed's plea of limitation cannot succeed as indicated above. The short point for consideration here is as to whether there is a material to hold that the wrapping paper had escaped duty in the first instance. The learned counsel for the revenue submits that this is a question of fact and that as the Central Government had come to a conclusion on the facts that the weight of paper on which duty had been levied did not include the weight of the wrapping paper we cannot interfere with this conclusion in this writ petition. We are unable to accept this contention. Rule 10 makes a provision for re-opening an assessment already completed. The condition precedent for the reopening of the assessment is that there should be

material on the basis of which it could be held that there was a short levy for any of the reasons set out in that rule. In the present case we find that there is absolutely no material to show that no duty had been levied in respect of the wrapping paper in the first instance as part of the paper, sent out from the factory duly packed. The onus is clearly on the part of the revenue to establish that the wrapping paper had not been charged when the goods were cleared originally. We find that the Central Government "has come to this conclusion only on the basis of resumptions and assumptions and without examining the detailed reasons and material placed before them. The short ground on which the re-assessment has been upheld is that at the time of original assessment the clearance documents had indicated only the nominal weight of the paper and that there were instances in which the actual weight was more than the nominal weight. But in arriving at this conclusion the Central Government has completely ignored the various other points and pieces of evidence on which the Appellate Collector had relied and also the evidence placed before them. In the first place the assessed had placed at " time of hearing before the Central Government detailed statement showing the nominal and actual weight of paper manufactured and issued from the factory between April, 1963 and March, 1971. A compilation has been filed as Ext. p-13 to the writ petition. It has been stated in the affidavit in support of the writ petition that these details had been placed before the Central Government and this statement has not been controverted in the counter-affidavit. The document shows that the actual weight of the goods over the entire period was considerably less than the nominal weight on which excise duty had been paid. It is no doubt true that in some instances the nominal weight, was less than the actual weight but by and large the actual weight was much less than the nominal weight. According to the statement during the period April, 1963 to March, 1971 there was a net underweight of paper to the extent of 547653 Kgs. out of the total production of 219421 tonnes. It "will be appreciated that several years after goods had been cleared it is not possible for either the assessed or the department to establish what exactly the weight of the goods that were cleared was. But the above statement based on the production records of the assessed clearly showed that by paying excise duty on the nominal weight there had been to under-payment of the excise duty as apprehended by the department. The contents of these statements are not challenged in the order of the Government nor is any positive statement made in the counter affidavit that these statements do not reflect the correct position though of course the learned counsel for the revenue states that it does not admit their correctness. Apart from the fact that overall picture is clearly indicative of the fact that the nominal weight must have included the weight of wrapping paper also, there are several other circumstances which support the assessed's case. We have earlier referred to the specifications by the Indian Standards Institution. These have been referred to in the order of the Central Government. But we are unable to see in what respect they have been mis-interpreted by the assessed. The specification for writing and printing papers issued by the Indian Standards Institution in September, 1961 (paragraph 5) reads as follows :

"5.Packing and Marking 5.1 A ream of 500 sheets shall be the measure of quantity and the paper shall be securely and suitably packed as agreed to between the purchaser and the supplier.

5.2 Each package shall be marked with the following particulars: (c) Weight in kg. per ream of 500 sheets including wrapping paper but excluding string ;

(14) This clearly shows that according to the specification by this Institution the wrapping paper was required to indicate not only the weight of the printing paper but also the wrapping paper. It no doubt appears to be true that the nominal weight indicated by the assessed merely represented an arithmetical calculation of the weight of the corresponding number of sheets of the writing and printing paper. We are also not very much impressed by the argument of the assessed that the paper making machine was so adjusted that when packed the nominal weight of 500 sheets of paper and their actual weight including the wrapper used for packing would tally. But at the same time one should not overlook that the weight of all sheets of paper could not be uniform and there are a number of reasons why there should be fluctuations from the normal weight of the paper sheets. Reading the specifications side by side in these circumstances there is no reason to disbelieve the assessed's version that though the nominal weight was marked on the paper on an arithmetical basis, it did also include the weight of the wrapping paper. Of course this instruction by the Indian Standards Institution by itself cannot be a ground on which a conclusion can be arrived at in favor of the assessed nor do we act on basis thereof only. The more important feature is what has been pointed out by the Appellate Collector. He has clearly found that at the time of original assessments there were periodical test checks as contemplated by the procedure we have outlined earlier. The paper which was in rolls was about actual weighed and so far as the paper was packed in reams was concerned the Central Excise. Officers conducted experiments from time to time determine their actual weight. Having regard to the standing order to which we have already referred it is quite clear that these test checks could not have revealed anything abnormal. There is nothing even to indicate that the nominal weight of the paper fall short of the actual weight by the initial margin of 1 per cent. If that had been so a larger test check would have been conducted and even if that had failed there would have been a complete weighment of a day's production. The absence of an allegation that any of these things happened coupled with the fact that till August, 1969 there was a revenue officer posted on the spot indicates that the actual weight of the paper did not fall short of the nominal weight. Having regard to all these factors the conclusion of the Central Government that the weight of the wrapping paper had not been charged to duty is only based on suspicion and assumptions.

(15) Shri Chaudhary contended that if we found that the Central Government had not considered certain arguments addressed on behalf of the assessed, we could remand the matter to the Central Government for fresh consideration. We are not persuaded to accept this contention. The order of the Central

Government was passed in 1975 and already about six years have elapsed since that date. Moreover as we have pointed out this is a case in which the Appellate Collector has dealt with the factual position exhaustively. The assessed had also made a detailed representation before the Central Government. We, Therefore, think it more appropriate to consider that the Central Government has erroneously ignored all these considerations in arriving at its conclusion and that its conclusion does not follow from the material placed on record and is, Therefore, vitiated. One more fact to which we may refer is that in the representation before the Central Government the assessed pointed out that the clearance document to which reference has been made and which had been presented along with consignments clearly mentioned that reams of papers were being cleared. It is obvious that such reams could not be cleared unless the paper had been properly packed. or wrapped : it would not and could not be cleared in the form of loose sheets from the factory and it is not anybody's case that it was so done. In these circumstances, though the descriptions of paper in the documents is mentioned as writing paper that was removed, the respondents were fully aware that reams of paper covered by wrapping or packing paper were being removed and having regard to the clearance documents and manner in which the paper was removed the respondent would have immediately taken appropriate action if there had been any gross omission on the part of the assessed in mentioning the weight on the wrapping paper for the purposes of duty. In fact the .audit report to which reliance had been made in the notice clearly shows that the respondents were all along aware of the packing and wrapping paper used in the packing of the reams and it is not as if the assessed had removed the goods or the wrapping paper clandestinely without the knowledge of the revenue authorities.

(16) For the above reasons we are of opinion that the order of the Central Government has to be set aside. We, Therefore, direct the issue of a writ of certiorari quashing the order of the Central Government dated 25th July, 1975. This automatically means that the order of the Appellate Collector dated 1st August, 1972 still stand restored. It is not, Therefore, necessary to pass formal orders quashing the notices dated 3rd and 16th November, 1970 and the order of the Assistant Collector though we have come to the conclusion that one of those notices was barred by limitation. In the result, the writ petition is allowed and the assesses will be entitled to his costs : counsel's fee Rs. 300.