**(1988) 01 MAD CK 0015**

**In the Madras High Court**

**Case No :** Writ Appeal No''s. 2012 to 2014 of 1987

The Appraiser, Appraising Department (Group II), Madras Customs, Customs House and Others — APPELLANT

Vs

The Tamil Nadu Newsprint Papers Ltd. — RESPONDENT

**Date of Decision :** 28-01-1988

**Acts Referred:**
Customs Act, 1962 — Section 14, 157, 25
Customs Tariff Act, 1975 — Section 2, 3

**Citation :** (1988) 17 ECC 119

**Hon'ble Judges :** Rathnavel Pandian, O.C.J.;Srinivasan, J

**Bench :** Division Bench

# Judgement

Srinivasan, J.—The only question involved in these appeals is whether the respondent is entitled to the benefit of the notification No. 62/83.

Cus., dated 1-3-1983 granting exemption from the whole of the auxiliary duty of customs leviable under Sub-clause (1) of Clause 45 of the

Finance Bill, 1983, with respect to paper making machinery and component parts thereof imported by the respondent.

2. The respondent is a public limited company incorporated under the Companies Act with the main object of establishing an industrial plant for

manufacturing newsprint and writing and printing paper. The respondent registered a contract as per heading No. 84.66 of the Customs Tariff Act,

1975, and Project Imports (Registration of Contracts) Regulations, 1965 with the Custom House, Madras, for clearance of the goods imported

for initial setting up of a paper mill of 90,000 tonnes capacity. As and when bills of entry were filed by the clearing agents of the respondent, the

goods imported were assessed to duty under the heading No. 84.66 of the Customs Tariff Act.

3. Section 2 of the Customs Tariff Act provides for levy of duties as specified in the First and Second Schedules to the Act, which is commonly

known as ""basic duty"". Section 3 of the said Act provides for levy of additional duty equal to the excise duty for the time being leviable on a like

article if produced or manufactured in India. A practice came into existence during recent years to levy a duty under the heading ""auxiliary duty"" as

a provision in the annual Finance Acts, with a life period of only one year from 1st of April of a year to the 31st March of the next year. The

Finance Act relevant in this case is the Finance Act, 1983. Section 45 thereof provided for levy and collection of auxiliary duty of customs at an

amount equal to fifty per cent of the value of the goods, in the case of goods mentioned in the First Schedule to the Customs Tariff Act. According

to Section 45 (4) of the Finance Act, 1983, the provisions of the Customs Act and the rules and regulations made thereunder, including those

relating to refunds and exemptions from duties shall, so far as may be, apply in relation to the levy and collection of the auxiliary duties of customs

leviable under that section in respect of any goods as they apply in relation to the levy and collection of duties of customs on each goods under the

Customs Act or those rules and regulations, as the case may be. It is by virtue of the said provision in Section 45(4) of the Finance Act, 1983, the

Central Government issued notification No. 62/83-Cus. dated 1-3-1983 by invoking the power u/s 25(1) of the Customs Act. The notification, to

the extent relevant, reads thus :--

Exemption from auxiliary duty on 19 items on which duty is bound under the GATT.ï¿½In exercise of the powers conferred by Sub-section (1) of

Section 25 of the Customs Act. 1962 (52 of 1962), read with Sub-clause (4) of Clause 45 of the Finance Bill, 1983, which clause has, by virtue

of the declaration made in the said Bill under the Provisional Collection of Taxes Act, 1931 (16 of 1931), the force of law, the Central

Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the goods specified in column (3) of the Table

annexed hereto and falling under heading No. or sub-heading No. of heading No. of the First Schedule to the Customs Tariff Act, 1975 (51 of

1975), specified in the corresponding entry in column (2) of the said Table, when imported into India, from the whole of the auxiliary duty of customs leviable thereon under Sub-clause (1) of Clause 45 of the said Finance Bill.

TABLE

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S1. Heading No. or sub-heading

No. no. of heading No. of the Description of goods.

First Schedule to the

Customs Tariff Act, 1975.

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(1) (2) (3)

.... .... ....

15. 84.31 Paper makg machinery and

component parts thereof.

... ... ...

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4. On the same day, another notification was issued by the Central Government bearing No. 61/83-Cus., reading as follows:--

Effective rates of auxiliary duty @ 20% on certain specified goods.--In exercise of the powers conferred by Sub-section (1) of Section 25 of the

Customs Act, 1962 (52 of 1962) read with Sub-clause (4) of Clause 45 of the Finance Bill, 1983, which clause has, by virtue of the declaration

made in the said Bill under the provisional Collection of Taxes Act, 1931 (16 of 1931), the force of law, the Central Government, being satisfied

that it is necessary in the public interest so to do, hereby exempts the goods specified in column (3) of the table annexed hereto and falling within

the Chapter of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), specified in the corresponding entry in column (2) of the said

Table, when imported into India, from so much of the auxiliary duty of customs leviable thereon under Sub-clause (1) of Clause 45 of the said

Finance Bill as is in excess of the amount calculated at the rate of twenty per cent of the value of such goods as determined in accordance with the

provisions of Section 14 of the first mentioned Act.

TABLE

 

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Chapter No. in the

S1. First Schedule to Description of goods

No. the Customs Tariff

Act, 1975.

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(1) (2) (3)

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.... .... ....

11. 84 Goods falling under heading No.

84.31 but excluding paper making

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(1) (2) (3)

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machinery and component parts

thereof.

12. 84 Goods falling under heading no,

84.66

.... .... ....

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5. It is the contention of the respondent that the goods imported by them fall under the description ""paper making machinery and component parts

thereof"" and therefore, covered by notification No. 62/83 Cus. On the other hand, it is the contention of the appellants that the goods imported by

the respondent are covered by entry No. 12 in notification No. 61/83-Cus., as the import is made under a contract registered as per the provisions

of heading No. 84.66 and Project Imports (Regulations of Contract) Regulations, 1965.

6. It is necessary at this stage to refer to the relevant entries in the First Schedule to the Customs Tariff Act under the headings 84.31 and 84.66 :

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Heading Sub-heading No. and Standard Central

No. Description of Rate of Excise

Article. duty. Tariff

Item

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(1) (2) (3) (4)

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... ...

84.31. Machinary for making or finishing 40%

cellulosic pulp, paper or paperboard

84.66 (i) All items of : 40%

(a) Machinery including prime-movers,

(b)Instruments, apparatus and appliances,

(c)Control gear and transmission equipment,

(d) Auxiliary equipment, as well as

all components (whether finished or

not) or raw materials for the

manufacture of the aforesaid

items and their components,

required for the initial setting up

of a unit, or the substantial

expansion of an existing unit,

of a specified :

(1) industrial plant,

(2) irrigation project,

(3) power project,

(4) mining project,

(5) project for the exploration

for oil or other minerals, and

(6) Such other projects as Central

 

Government may, having regard
to the economic development of
the country, notify in
the Official Gazette in this behalf:
Provided these are imported
(whether in one or in more than
one consignment) against one or
more specific contracts which have been
registered with the appropriate
Customs House in the manner
prescribed by Regulations which
the Central Board of Excise and
Customs may make u/s 157
of the Customs Act, 1962 (52 of 1962)
and such contract or contracts has or have
been so registered before any order is
made by the proper officer of customs,
permitting the clearance for home consumption,
or deposit in a warehouse of items,
components or raw materials ;
(ii) All spare parts, other raw 40%
materials (including semi-finished
materials), or consumable stores
imported, as a part of a contract
or contracts, registered in terms of
sub-heading (i), provided the
total value of such spare parts,
raw materials, and consumable
stores does not exceed 10% of the
value of the goods covered by

 

sub-heading (i) and further,

provided that such spare parts,

raw materials or consumable stores

are essential for the maintenance of

the plant or project mentioned in

sub-heading (i).

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7. Regulations were framed in 1965 with reference to the contracts to be registered under the heading No. 84.66; They are called Project Imports

(Registration of Contract) Regulations, 1965. Regulation No. 2 provides that the Regulations shall apply to every contract referred to in sub-

heading No. (i) of heading No. 84.66 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). The procedure for registration of

contract is found in regulation No. 3. Regulation No. 4 provides the assignment of a number to the contract while regulation No. 5 prescribes the

procedure for the amendment of the contract.

8. The purpose of introducing heading No. 84.66 in the First Schedule is to avoid hardship to the importers in establishing new projects which may

be caused by a delay in clearance by the customs authorities. In respect of setting up of project initially or extending an existing project, various

equipments, machinery, apparatus, raw materials, spares and consumables will be required. In the normal course, those items are classifiable under

different tariff heads and they will attract different rates of customs duty. It would involve careful scrutiny of each and every item for assessment,

which would necssarily lead to a delay in clearance and certain amount of hardship on the importers. In order to alleviate the same and to

streamline the process of clearance of imported materials for the project as a whole and taking into consideration the purpose for which the various

items are imported, a separate heading numbered as 84.66 was incorporated in the First Schedule. It will not be out of place to refer to the

observations made by the Finance Minister when the heading was introduced in the Act. Those observations are extracted in the counter affidavit

filed by the Assistant Collector of Custom, Legal Section, Customs House, in the writ petitions. They are as follows:ï¿½

 

There have been complaints that the import of equipment by project is impeded as a result of meticulous assessment at the appropriate rates of

each constituent item required for setting up the project. I now propose to introduce a new tariff item to cover the import of equipment needed for

the initial setting up of new projects or for undertaking substantial expansion of existing projects in the fields of industry, power, mining and

prospecting for minerals or oil. Not only complete consignment but also component parts and raw materials imported specifically for fabricating

equipment within India, for a project and same quantity of initial stock of spare parts and other stores needed for the maintenance of the project

can be imported under this item. The contract or contracts would have to be registered in advance with the Customs authorities and a provisional

assessment will be made immediately obviating to the maximum possible extent the need for detailed assessment of indvidual lots, after the goods

arrive. The equipment imported under the item will be charged to duty at the machinery rateï¿½.

9. A reading of the entry under the heading 84.66 shows that it is not a residuary heading or a general heading relating to any class of goods. It is a

specific entry introduced with a purpose and it relates only to goods imported for the initial setting up of a unit or a substantial expansion of an

existing unit of a specified industrial plant, irrigation project, etc. When an importer registers a contract as required in the entry under the heading

84.66 all the goods imported by him under that contract will be subjected to duty only as per that entry. It will not be open to the Revenue to pick

out some of the goods imported under the contract and impose a different rate of duty on the footing that they would be covered by a different

heading. If the conditions prescribed under the heading 84,66 are satisfied, the duty is imposed on the goods imported under that heading, as if

they form one composite unit.

10. It is seen that the heading No. 84.31 refers to machinery for making or finishing cellulosic pulp, paper or paperboard and the rate of duty is

40%: It so happens that the rate of duty under the heading No. 84.66 is also 40%. If on any particular date, the rate of duty under the heading

84.31 is different from that under the heading 84.66, then the rate applicable to machinery imported for making or finishing cellulosic pulp, paper or paperboard, under a contract registered as per the heading No. 84 66 will be the duty specified under the heading No. 84.66 and not the duty

fixed under the heading 84.31. Heading No. 84.31 will apply only to machinery imported otherwise than under a contract registered as per

heading 84.66.

11. Turning to the notifications of exemption, it is seen that notification No. 61/83 grants exemption to the goods specified in the Table appended

thereto from auxiliary duty of customs in excess of the amount calculated at the rate of 20% of the value. Serial No. 11 of the Table refers to

goods falling under heading No. 84.31, but expressly excludes paper making machinery and component parts thereof. Serial No. 12 refers to all

goods falling under heading No. 84.66. Serial No. 12 has to necessarily apply to paper making machinery and parts thereof, if they fall under

heading No. 84.66. There is no exclusion of such machinery from that entry. Notification No. 62/83 exempts the whole of the auxiliary duty on

paper making machinery and component parts thereof falling under heading No. 84.31. There is no entry in notification No. 62/83 excepting paper

making machinery and component parts thereof falling under the heading No. 84.66. Exemption from the whole of the auxiliary duty is available

only to such paper making machinery and component parts thereof, which would fall under the heading 84.31. The following words in notification

No. 62/83, viz., ""exempts the goods specified in column (3) of the Table annexed hereto and falling under heading No. or sub-heading No. of

heading No. of the First Schedule to the Customs Tariff Act, 1975, (51 of 1975), specified in the corresponding entry in column (2) of the said

Table..."" are very significant. The notification prescribes two conditions for exemption. The first condition is that the goods must be of the

description specified to column (3) of the Table and the second condition is that the goods must fall under heading No. or sub-heading No. of

heading No. of the First Schedule specified in column (2) of the Table. If certain goods fall under a description found in column (3) of the Table

and do not fall under the heading specified in column (2), they would not be covered by the notification. Similarly, if certain goods fall under the

heading specified in column No. (2) but do not satisfy the description in column (3) of the Table, they would also not be covered by the notification. Thus, on plain reading of the notification, it is clear that the paper making machinery and parts thereof would be exempted from the

whole of the auxiliary duty of customs only if they fall under the heading No. 84.31. When notification No. 61/83 refers to both heading Nos.

84.31 and 84.66 but excludes paper making machinery and component parts thereof falling under heading No. 84.31 only, it is clear that the

Central Government did not intend to treat paper making machinery and component parts thereof as a separate class by itself fit for exemption

from the whole of the auxiliary duty, whether they were imported under a contract registered under the Heading 84.66 or not.

12. Our attention is drawn to two other notifications of exemptions issued by the Central Government. The first of them is notification No. 268-

Cus., dated 2-8-1976 exempting goods falling under heading No. 84.66 of the First Schedule to the Customs Tariff Act from the whole of the

additional duty leviable thereof u/s 3 of the said Act. There is no difficulty in construing the said notification as it exempts all the goods falling under

heading No. 84.66. The other notification is notification No. 217-Cus, dated 26-9-1981. It reads as follows:--

Exemption to articles imported for manufacture of newsprint and printing and writing paper.--In exercise of the powers conferred by Sub-section

(1) of Section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to

do, hereby exempts the articles, falling under heading No. 84.66 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), when

imported into India for manufacture of newsprint, and printing and writing paper, from so much of that portion of the duty of customs leviable

thereon which is specified in the said First Schedule as is excess of 30 per cent ad valorem subject to the conditions that--

(i) at least 75 per cent bagasse pulp is used for such manufacture; and

(ii) The Directorate General of Technical Development certifies in each case that such articles are or will be required for the purpose specified

above."" It is common ground that the respondent was entitled to the benefit of this notification as the conditions prescribed therein were satisfied. It

is significant to note that the notification does not exempt in general all the articles imported into India for manufacture of newsprint and printing and writing paper where at least 75% bagasse pulp is used for such manufacture and the Directorate General of Technical Development certifies in

each case that such articles are required for the said purpose. But, it exempts only those articles falling under heading No. 84.66 of the First

Schedule. It is a condition precedent for claiming exemption under the said notification that the import should be under heading No. 84.66. When

the Central Government takes care to specify the heading and grants exemption to goods of a particular description falling under that heading, it

will not be open either to the importer or to the Customs Department to contend that the notification would apply to all goods of such description

whether they fall under that heading or not. In our view, the relevant notifications, viz., notification No. 61/83 and notification No. 62/83 are

unambiguous in their terms and there is no question of overlapping. We hold that the respondent is not entitled to the benefit of notification No.

62/83 and the appellants are right in levying auxiliary duty as per the terms of notification No. 61/83.

13. A somewhat similar question arose before the Supreme Court of India in Jain Engineering Co. Vs. Collector of Customs, Bombay and others,

and it happened to be a converse case. The appellant before the Supreme Court claimed the benefit of the notification No. 281-Cus/76, granting

part exemption from payment of customs [duty] only in respect of the rod bushes and camshaft bushes imported by the appellant therein. The entry

in the exemption notification referred to internal combustion piston engines for industrial and agricultural tractors and power tillers and parts thereof

which covered bushes imported by the appellant in that case. The heading in the First Schedule of the Customs Tariff Act, viz., heading No. 84.06

referred to internal combustion piston engines. The entry under the heading 84.06 did not refer to parts of such engines. The contention before the

Supreme Court advanced on behalf of the Revenue was that as the entry in heading No. 84.06 did not refer to the parts of internal combustion

piston engines, the appellant in that case was not entitled to claim exemption when he imported only the parts. Secondly it was contended that even

if the entry had contemplated parts of the engine, such parts should be all the parts of the engine and not a few parts thereof. Both the contentions

were rejected by the Supreme Court. The third contention which was put forward was that some of the parts imported would be covered by entry in heading No. 84.63 and therefore, it would not fall under the notification of exempt ion which specifically related to goods falling under heading

No. 84.06. Repelling that contention, the Supreme Court observed thus:--

10. In view of our finding that the notification exempts also parts of the engines mentioned in paragraph 2 of column (2) of the Table, in order to

avail of the benefit of the exemption granted by the notification, it has to be proved that the parts in respect of which the exemption is claimed, are

parts of the internal combustion piston engine, as mentioned under heading No. 84.06. Some of such parts may have been included under heading

No. 84.63. In other words, as soon as it is proved that the parts are of the engines, mentioned in heading No. 84.06, such parts will get the benefit

of exemption as provided by the notification irrespective of the fact that they or any or some of them have already been included under heading

No. 84.63 or under any other heading. Therefore, even if bushings are the same as bearings, still they would come within the purview of the

notification, provided they are parts of the engines mentioned under heading No. 84.06. The contention of the customs authorities that the article,

which is provided under another heading other than heading No. 84.06, will not get the exemption as provided in the notification, is not readily

understandable. When the notification grants exemption to the parts of the engines, as mentioned under heading No. 84.06, we find no reason to

exclude any of such parts simply because it is included under another heading. The intention of the notification is clear enough to provide that the

parts of the engines, mentioned under heading No. 84.06, will get the exemption under the notification and in the absence of any provision to the

contrary, we are unable to hold that the parts of the engines, which are included under a heading other than heading No. 84.06, are excluded from

the benefit of the notification.

14. The aforesaid ratio will apply on all fours to the present case. When the exemption notification refers specifically to heading No. 84.31 and

describes certain goods falling under that heading, it will not be open to the importer to contend that the goods falling under ""another heading, viz.,

heading No. 84.66 would be covered by the notification.

15. Learned Counsel for the respondent repeated the contentions urged before the learned single Judge and upheld by him. The first contention is

 

that the principle generalia specialibus non derogant would apply to this case. According to learned counsel heading No. 84.66 is a general entry

and heading No. 84.31 is a special entry and the exemption notification grants exemption to goods of a specific description, viz., paper making

machinery and parts thereof, and, therefore, the special provision should prevail over the general provision. We do not agree with learned counsel

for the respondent as the heading No. 84.66 is not a general entry. It is a specific entry brought in with a specific purpose. It is not a residuary

entry, as pointed out already. The principle that special excludes general, will not apply to this case. The exemption notification No. 62/83 has to

be understood on its terms and the language thereof has to be given full effect. If the exemption notification had merely referred to the description

of the goods as paper making machinery and parts thereof without referring to any heading in the First Schedule, the contention urged by learned

counsel for the respondent may have some force. But, the notification expressly refers to the heading under which the goods shall fall. There cannot

be one heading for purposes of levying duty and another heading for purposes of exemption. When the notification refers to the heading and

exempts goods falling within that category, that cannot be availed of in cases where the goods are not covered by that category. Hence, the

decisions of the Supreme Cout in Superintendent of Central Excise, Surat and Others Vs. Vac Met Corpn. (P) Ltd., etc. etc., , and Atul Glass

Industries (Pvt.) Ltd. Vs. Collector of Central Excise, relied on by learned counsel for the respondent are not applicable to the present case. Those

two decisions lay down that when certain articles will fall under a specific entry, they cannot be dealt with under a general entry.

16. The second contention urged by learned counsel is that a fiscal law has to be construed in favour of the tax-payer and not in favour of the

Revenue. That will be so only if there is any ambiguity in the language of the relevant provision. If the concerned provision is clear enough, it has to

be given its plain meaning. It is well known that fiscal enactments have to be construed strictly according to their terms. There is no question of its

being interpreted in favour of the tax-payer when there is no ambiguity in the language. Learned Counsel for the respondent places reliance on

Commissioner of Income Tax Vs. Balapur Sugar and Allied Industries Ltd., , in support of his proposition. As we do not find any ambiguity in the language of the relevant notification, the principle laid down in that case will not apply. Passages were read from Maxwell on the Interpretation of

Statutes and Craies on Statute Law in support of the contention that ""subject is not to be taxed unless the language of the statute clearly imposes

the obligation"". Reliance is placed upon the dictum of Rowlatt, J., in Cape Brandy Syndicate v. I.R.C. (1981) 1 KB64, found in the following

terms:--

In a taxing Act, one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no

presumption as to a tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used.

Far from helping learned Counsel for the respondent, the dictum of Rowlatt, J., favours the appellants in this case. On a plain reading of what is

clearly said in the notification, we have no doubt that the respondent is not entitled to the benefit of the exemption granted therein.

17. Learned Counsel for the respondent drew our attention to the decision of the Bombay High Court in Bombay Paints and Allied Products Ltd.

v. Union 0f India and Ors. 21 ELT 663 (Bom) and that of the Cegat, Special ''C Bench, New Delhi in 1987 (11) ECC 141 for the proportion that

whenever there is any doubt in the meaning of an exemption notification, the benefit of doubt must go to the assessee, so that the tax burden is

lessened. In the present case, there is no question of giving any benefit of doubt to the assessee as the notification of exemption is very clear in its

meaning.

18. Learned Counsel places reliance on the decisions of the Supreme Court in Commissioner of Income Tax, Punjab Vs. Kulu Valley Transport

Co. P. Ltd., and the judgment of Venkataswami, J. in M/s. Raj''s Continental Exporters, Bangalore by K. Sampathraj v. Union of India, rep. by

Secretary Ministry of Finance, New Delhi and Ors. (W. P. No. 1429 of 1985 dated 14-5-1985) and that of a Division Bench in Union of India

rep. by the Secretary, Ministry of Finance, New Delhi and Anr. v. M/s. Raj''s Continental Exports (P). Ltd. Bangalore, rep. by K. Sampathraj

(W.A. No. 451 of 1985 dated 28-6-1985) confirming the judgment of Venkataswami, J., in support of his contention that if two views are

possible, the view which is favourable to the assessee must be accepted while construing the provisions of a taxing statute. The proposition as such

is not disputed by learned counsel for the appellants. In the view we have expressed already, the above proposition will not apply to the facts of

this case.

19. Learned Counsel for the respondent submitted that the notification of exemption dealt with auxiliary duty only and not with additional duty or

basic duty. Learned counsel submitted that auxiliary duty is different from additional duty and basic duty and just because the goods were dealt

with under a particular heading for the purpose of basic duty and additional duty, they could not be classified under the same heading for the

purpose of auxiliary duty. Learned Counsel invited our attention to the decision of the Supreme Court in Union of India (UOI) and Others Vs.

Modi Rubber Ltd., . In that case, the notifications issued under Rule 8 (1) of the Central Excise Rules, 1944, used the expression ""duty of excise"".

The Supreme Court held that the expression bears the same meaning which it has in Rule 8 (1) and that meaning clearly is excise duty payable

under the Central Excises and Salt Act, as envisaged in Rule 2. Clause (v), and that it cannot in the circumstances bear an extended meaning so as

to include special excise duty and auxiliary excise duty. It was, therefore, held that the assessee was entitled to exemption only in respect of basic

duty of excise leviable under the Central Excises and Salt Act and not entitled to claim any exemption in respect of special duty of excise or

additional duty of excise or auxiliary duty of excise. We are at a loss to understand how this decision can help the respondent in the present case.

Auxiliary duty is levied u/s 45 (1) of the Finance Act. As we have seen already, the headings found in the First Schedule to the Customs Tariff Act

are adopted for the purpose of auxiliary duty. Exemption from auxiliary duty is granted by the power u/s 45 (4) of the Finance Act read with

Section 25 of the Customs Act. The said headings as are relevant for levying the auxiliary duty will be applicable for application of the notification

of exemption.

20. It was next argued that just because the respondent had the benefit of exemption from the whole of the additional duty under notification No.

268 Cus, dated 2-8-1976 and a reduction of the duty to 30% ad valorem under notification No. 271-Cus, dated 26-9-1981, the respondent

 

cannot be deprived of the benefit of notification No. 62/83 dated 1-3-1983 as there is no provision in law denying a double benefit to a tax-payer.

Reliance is placed on the decision in (1946) 14 ITR 479 and Commissioner of Income Tax (Central) Vs. Express Newspapers Ltd., in support of

the said proposition. Again, the proposition is not disputed by learned counsel for the appellants. It is not the contention of the appellant that the

respondent would be getting a double advantage if the notification No. 62/83 is applied to the goods in question and, therefore, the notification is

not available to them; but the contention, is that on the terms of the notification, it cannot be invoked by the respondent. We have already held that

the notification will not apply to the goods imported by the respondent under a contract registered under heading No. 84.66.

21. Yet another contention was urged by learned Counsel for the respondent that the notification No. 62/83 is made by the Central Government

pursuant to its obligation under the General Agreement on Tariffs and Trade (GATT). He points out that India is one of the contracting parties to

the GATT and is bound to give effect to the terms thereof. Learned counsel invites our attention to the following passage at page 1968 of Volume

17 of Encyclopaedia Britannica:--

Efforts to liberalise trade: A great tide of protectionism rose during the depression of the 1930s, when industrial nations raised tariffs and other

barriers to trade in an attempt to help domestic producers. Since most countries adopted these ''beggar-my-neighbour'' policies, the effect was to

stifle trade. The gains to protected industries were offset by the harm to export industries. As the failure of these policies became apparent,

propsals to stem the tide of protectionism and to reduce tariffs through multilateral agreement were put forward. Political and economic

uncertainties prevented the realization of these goals in the years preceding World War II.

post-World War II period witnessed several efforts to reduce tariff barriers. Prominent among these were the tariff reductions undertaken in the

Framework of the General Agreement on Tariff and Trade (GATT) after that organization came into being in 1948. GATT members include

virtually all major trading nations of the world, but only the ''more developed countries'' have participated in the successive rounds of tariff reductions. But such reductions are automatically applied to imports from developing member countries; under the most-favoured-nation clauses,

the contracting parties to GATT assume the obligation to extend to one another the tariff concessions accorded to any one member country.

Another central feature of GATT is the principle of reciprocity; mutual tariff concessions are designed to lead to equivalent increases in the exports

and imports of each participant. The principles of non-discrimination and reciprocity often conflict, since the agreed-upon tariff reductions are

extended to countries not obliged to reciprocate. To lessen this effect of giving ''free ride'' to third countries, much tariff bargaining was carried out

on an item-by-item basis in the postwar period. This approach limited the scope of tariff reduction and, after initial successes, the progress of

multilateral trade liberalization slowed down.

It is therefore submitted by learned Counsel for the respondent that the 19 items set out in notification No. 62/83 are entitled to exemption from

whole of the auxiliary duty of customs and paper making machinery and component parts thereof being item No. 15, should have the benefit of

exemption, whether they fall under heading No. 84.31 or heading No. 84.66. We do not agree. It is not for us to consider the motive or the

purpose of the notification. We are bound by the language of the notification, which, in our view, is very clear and unambiguous. On the terms of

the notification, the goods described in column (3) will have the benefit of exemption only if they fall under the heading mentioned in column (2) of

the Table attached to the notification.

22. The learned single Judge has rested his conclusion on the two principles, (1) generalia specialibus non derogant and (2) the rule of construction

of fiscal law should be in favour of the tax-payer. We have already pointed out that both the principles are not applicable to the facts of this case

and they do not help the respondent.

23. In the result, the order of the learned single Judge allowing the three writ petitions has to be set aside. The appeals are allowed and the Writ

Petition Nos. 2054, 3257 and 3258 of 1983*Reported as Tamil Nadu Newsprint and Papers Ltd., Madras Vs. Appraiser, Madras Customs and

Others, . are dismissed. There will be no order as to costs.

 