**(1993) 01 CAL CK 0040**

**In the Calcutta High Court**

**Case No :** Civil Rule No. 9787 (W) of 1981

Tribeni Tissues Ltd. APPELLANT

Vs

Union of India (UOI) RESPONDENT

**Date of Decision :** 22-01-1993

**Acts Referred:**

**Citation :** (1993) 66 ELT 177

**Hon'ble Judges :** Suhas Chandra Sen, J

**Bench :** Single Bench

**Advocate :** R.N. Bajoria and J.P. Khaitan, for the Appellant;N.C. Roy Chowdhury and Uma Sanyal, for the Respondent

**Final Decision :** Allowed

# Judgement

Suhas Chandra Sen, J.—On the oral prayer by the petitioner on the ground that Tribeni Tissues Limited has now merged with I.T.C. the prayer for amendment is allowed.

2. The petitioner in this writ petition has challenged the decision of the Collector of Central Excise and Customs West Bengal, Calcutta dated 8th of May, 1981. By this order the Collector has held that the petitioner is not entitled to the benefit of the Notification No. 45/73-C.E., dated 1-3-1973 as amended could be extended to the petitioner in respect of certain types of paper manufactured by the petitioner. The dispute is as to the meaning of the proviso which is as under :-

"Provided that

(i) the said paper is manufactured in a factory having no plant attached thereto for making bamboo pulp.

There is no dispute that the petitioner is otherwise entitled, under the notification, to get the benefit of the aforesaid notification. The petitioner''s case is that the proviso does not stand in the petitioner''s way because the petitioner does not have any plant attached to its factory for making bamboo pulp. This allegation has been admitted to be true by the Collector in his order dated 8th of May, 1981. The Collector has observed as under :

"There is no doubt that this plant as it is at Tribeni Tissues is not a plant for making bamboo or wood pulp."

3. But the Collector was of the view that the first proviso of this notification, when it says that the paper mill cannot get this exemption when it has a plant for making bamboo or wood pulp, it means that it cannot use bamboo or wood pulp at all even after purchasing from outside. If that is not the necessary implication, the whole purpose of this proviso will be negatived and nullified. It would be nothing but circumvention of the provision of this notification. This interpretation of the Collector has really made the proviso meaningless. If the intention of the Central Government was to deny the benefit of the notification to a factory which uses bamboo pulp for making paper, there is no reason why that intention should not have been stated in plain language. The clear language used in the proviso is that the factory should not have plant attached thereto for making bamboo pulp. If there is such a plant attached then the petitioner will not get the benefit of the notification. But if the petitioner''s factory does not have such a plant the petitioner will get the benefit of the notification. That is the clear meaning of the Statute. The natural meaning cannot be discarded for a meaning based on the supposed intention of the Government. If the Government intended the proviso to have some other meaning the Government should have said so in plain language.

4. The language of the proviso is clear. The petitioner manufactures paper in a factory of its own. The petitioner does not have a plant attached thereto for making bamboo pulp. The benefit of the notification cannot be denied to the petitioner.

5. In that view of the matter, the Rule is made absolute. The order of the Collector is quashed.

6. Several other points were taken in the writ petition. In the view I have taken on the point decided I do not express any opinion on the other points.

There will be no order as to costs.