(2002) 10 SC CK 0101

In the Supreme Court Of India

Case No : Civil Appeals Nos. 4060-63 Of 1995

Vivek Re-Rolling Mills APPELLANT

Vs

Collector of Central Excise RESPONDENT

Date of Decision : 24-10-2002

Acts Referred:

Citation : (2002) 146 ELT 496

Hon'ble Judges : S. S. M. Quadri, J;S. B. Sinha, J

Bench : Division Bench

Advocate : R. Santhanam, Rajendra Singhvi and B. Sunita Rao, for the Appellant; N.K. Bajpai, Dileep Tandon and B. Krishna Prasad, for the Respondent

Final Decision : Allowed

Judgement

1. Four of the appellants before the Customs, Excise & Gold (Control) Appellate Tribunal (CEGAT) challenged the common Final Order Nos. E/347 to 350/94 of the CEGAT, dated July 21, 1994, in these appeals.

2. The appellants claimed benefit of exemption under Notification No. 202/88-CE., dated May 20, 1988. The said notification exempts goods of the description specified in column (3) of the Table annexed thereto and falling within Chapter 72, Chapter 73 or Heading No. 84.54 of Schedule to the Central Excise Tariff Act, 1985 from the whole of the duty of excise leviable thereon which is specified in the said Schedule, when the final products are made from any goods of description specified in the corresponding entry in column (2) of the said Table. Such goods are referred to as 'inputs'. There is yet another condition that the inputs should have suffered the duty under the said Act. There is no dispute that the inputs have suffered the duty. The only controversy which resulted in denial of benefit of the notification to the appellants from the original authority up to the stage of the Tribunal is that the inputs used by the appellant for manufacture of finished product, do not answer the description of the goods specified in column (2). The appellants are using old and used railway materials as inputs for manufacturing the final products, namely, bars and M.M. Rounds/Squares. The

appellants have, however, maintained that the inputs used by them are nothing but angles, shapes and sections of iron of non-alloy steel (other than slotted angles and slotted channels) which are specified in column (2).

3. Learned counsel for the appellants, in support of his contention, invited our attention to an earlier notification which was in force in 1983, namely, Notification No. 208/83-C.E., dated August 1, 1983 and pointed out that a circular of the Board of Central Excise accepted, for the purposes of sub-item (11) of item 25 of the old Tariff Act, unspecified angles, shapes and sections as inputs for the purposes of the said notification. He has also placed before us a letter of the Collector, Central Excise, Indore, dated 29th/30th April, 1987 in which the Collector recommended that the clarification made for the purposes of the Notification No. 208/83-C.E., should also hold good in the light of the new Tariff Act. That recommendation of the Collector was accepted by the Board.

4. Mr. Bajpai, learned counsel appearing for the Revenue, submits that to entitle the benefit of exemption for the final products, the notification has to be strictly construed and, as the inputs do not find a place in column (2), the appellants are not entitled to the benefit of Notification No. 202/88.

5. In view of the fact that for the purposes of the sub-item (11) of item 25 of the old Tariff Act, the Ministry has accepted, vide Dte. of Tax Research F.No.B-28/8/83-TRU, dated 8-9-83, unspecified angles, shapes and sections as inputs and the recommendation of the Collector, Indore to extend the same benefit under the new Act has been accepted by the Board, the appellant should be held entitled to the benefit of the aforementioned notification, namely, Notification No. 202/88.

6. In this view of the matter, the order under appeal cannot be sustained. It is, accordingly, set aside and it is held that the appellants are entitled to the benefit of Notification No. 202/88-CE., dated May 20, 1988.

7. The appeals are, accordingly, allowed; in the circumstances of the case, we make no order as to costs.

