

CASE NO.:
Appeal (civil) 10577 of 1995

PETITIONER:
TATA IRON & STEEL CO. LTD.

RESPONDENT:
UNION OF INDIA

DATE OF JUDGMENT: 20/11/2002

BENCH:
SYED SHAH MOHAMMED QUADRI & ARIJIT PASAYAT

JUDGMENT:
JUDGMENT

2002 Supp(4) SCR 289

The following Order of the Court was delivered:

These appeals raise a common question : whether the appellants are entitled to the benefit of Notification No. 53/64, dated March 1, 1964, which, as quoted in the paperbook, reads as under:

"Notification

G.S.R. In exercise of the powers conferred by sub-rule (1) of Rule 8 of the Central Excise Rules, 1944, the Central Government hereby exempts steel ingots falling under Item No. 26 of the First Schedule to the Central Excise and Salt Act, 1944 (1 of 1944), produced from fresh unused steel melting scrap, exclusively or in admixture with any other material scrap, exclusively or in admixture .with any other material, from so much of the duty of excise as is proved to have been paid on such fresh unused steel melting scrap under Item No. 26 of the schedule provided that no set off of duty has already been availed of. in respect of such scrap."

A plain reading of the notification shows that the Central Government granted qualified exemption on steel ingots falling under Item No. 26 of the first Schedule to the Central Excise and Salt Act, 1944 (1 of 1944). This exemption is subject to the conditions that: (1) the Steel ingots are produced from fresh unused steel melting scrap, exclusively or in admixture with any other material scrap, (2) the fresh unused steel melting scrap: (a) should have suffered duty under the said Item 26 of the first Schedule and (b) no set off of duty has already been availed of in respect of such scrap; and (3) the quantum of exemption is limited to so much of the duty of excise as is proved to have been paid on such fresh unused steel melting scrap under Item 26 of the first Schedule.

The appellants made a large claim. But the claim is confined before us only to exemption of steel ingots on the ground that what was used in manufacture of steel ingots falling under Item No. 26 of the First Schedule, was steel melting scrap.

The claim of the appellants was negatived by the departmental authorities as well as the Central Government, on revision. On the writ petitions being filed by the appellants before the High Court, a learned Single Judge, held, inter alia.

"It is difficult to accept the contention that cut pieces of blooms used for the manufacture of ingots would also merit exemption. Such cut pieces of blooms do not conform to the description and are entirely different in nature than the ingredient contemplated under the notification."

In our view, the conclusion reached by the High Court cannot be sustained

for two reasons. First, the revisional authority, namely, the Central Government, in its order dated September 7, 1979 found,

"Therefore, what the petitioners received back was not the same material in its pristine form, which the petitioner had despatched, but only a mutilated or truncated form of the duty-paid bloom, rendered into steel melting scraps."

The High Court has not taken note of this finding. Secondly, in view of the judgment of this Court in the appellant's own case, titled Tata Iron & Steel Co. Ltd v. Collector of Central Excise, (1995) 75 E.L.T. 3, melting scrap even of bloom satisfies the requirement of the notification.

In the above-cited case, having considered the definition of 'melting scrap', it was held that the scrap of billet or bloom would not be the same thing as semi-finished product falling under Item 26AA. It would, therefore, follow that the cut pieces of bloom which were rendered into melting scrap, had gone into making of steel ingots falling under Item No. 26 of the First Schedule, so the requirement of the said notification to that extent is fulfilled. The appellants are, therefore, entitled to the benefit of exemption under the notification in regard to so much of the excise duty as is proved to have been paid on such melting scrap under Item 26 of the first Schedule.

Accordingly, the orders under challenge are set aside and the civil appeals are allowed.

There will be no order as to costs.