

PETITIONER:
HINDUSTAN STEELWORKS CONSTRUCTION LTD.

Vs.

RESPONDENT:
LIMESTONE AND DOLOMITE MINESWELFARE AND CESS COMMISSIONER &

DATE OF JUDGMENT: 21/08/1996

BENCH:
PUNCHHI, M.M.
BENCH:
PUNCHHI, M.M.
MANOHAR SUJATA V. (J)

CITATION:
JT 1996 (7) 466 1996 SCALE (6)130

ACT:

HEADNOTE:

JUDGMENT:
THE 21ST DAY OF AUGUST, 1996

Present:

Hon'ble Mr. Justice Madan Mohan Punchhi
Hon'ble Mrs. Justice Sujata V. Manohar

Dr. Sankar Ghosh, Sr. Adv. and P.P. Singh, Adv. with him for
the appellant.

W.A. Qadri, Adv. for C.V.S. Rao, Adv. for the Respondents

O R D E R

The following Order of the Court was delivered:
Hindustan Steelworks Construction Ltd.

V.

Limestone and Dolomite Mines Welfare
and Cess Commissioner and Anr.

O R D E R

The appellant herein, Hindustan Steelworks Construction Limited, is a company owned by the Government of India. It owns mines from which limestone is extracted. It is the case of the appellant that it is using such limestone in the construction work for expansion of Hindustan Steel Ltd., Bhilai Steel Plants, which is engaged in the production of iron and steel. Under Section 3 of the Limestone and Dolomite Mines Labour Welfare Fund Act, 1972, it is required to pay a duty of excise at such rate not exceeding Rs.1 per metric tonne of limestone extracted and used for the purposes as afore stated. That has been put to challenge. It would therefore be essential to reproduce Section 3 which is as follows:

"3. With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied and collected as a Cess for the purposes of this Act on so much of Limestone and Dolomites produced in any mine.

(i) As is sold or otherwise

disposed of to the occupier of any factory; or

(ii) as is used by the owner of such mine for any purpose in connection with the manufacture of cement, iron, steel, ferro-alloys, alloy steel, chemicals, sugar, paper, fertilizers, refractories Iron Ore pelletisation or such other article or goods or class of articles or goods, as the Central Government, may, from time to time, specify by notification in the official Gazette, a duty of excise, at such rate not exceeding one rupee per metric tonne of Limestone or Dolomite, as the cess may be, as the Central Government may from time to time, fix by notification in the official Gazette.

EXPLANATION: Where the owner of any Limestone or Dolomite Mine is also the occupier of any factory, then, for the purposes of clause (ii), all Limestone or the Dolomite, as the case may be, produced in the mine and not sold or otherwise disposed of to the occupier of any other factory shall be deemed, unless the contrary is proved, to have been used by such owner for any purpose in connection with the manufacture of any article or goods referred to in or specified under Clause (ii)."

Attention engaged before the High Court, as also here, is whether the above provision be construed narrowly or widely. The High Court has taken the view that the expression used therein "for any purpose in connection with the manufacture ofiron, steel...." is of wide amplitude and will embrace within its scope such activities as have nexus with its activity of manufacture of iron and steel.

A number of commodities/industries find covered in sub-section (ii) of Section 3 and in almost all of them (leaving apart cement and chemicals) the use of limestone per se is not directly towards their manufacture. If it is ruled that no limestone is required for the manufacture of iron and steel in the context of sub-section (ii) of Section 3, such narrow reading would lead to the provision being rendered otiose. It has to be borne in mind that the primary purpose of the Act is to build a Labour Welfare Fund, a measure well deserved for the Labour, and the excise duty imposed is in the nature of a cess to achieve that purpose. So the provision by its own compulsion requires to be construed widely as otherwise the purpose of legislation would be frustrated. Therefore limestone used by an owner extracted from his mine, for any purpose relatable to and in connection with the manufacture of commodities, including iron and steel, would attract payment of excise duty at the rates specified therein. Such interpretation would only be the purposive one and commended by the language employed. We therefore hold accordingly.

For the foregoing reasons, agreeing with the views expressed by the High Court as to the interpretation of the provision, we dismiss this appeal but without any order as

to costs.

JUDIS