

PETITIONER:
STEEL AUTHORITY OF INDIA LTD.

Vs.

RESPONDENT:
COLLECTOR OF CENTRAL EXCISE, BOLPUR.

DATE OF JUDGMENT: 20/02/1997

BENCH:
S.P. BHARUCHA

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T

BHARUCHA. J.

I have had the benefit of reading the judgment that my brother, Majmudar, J., is about to deliver and I am in respectful agreement therewith. These few lines may be read as an addendum thereto.

Let me assume for the moment that the assessee was not making clearances on the basis of "the later the better" principal. It would have paid excise duty on the pig iron input and claimed, under the notification dated 27th March, 1971, set off of the amount thereof when clearing the steel ingots produced therefrom. To illustrate, it would have paid Rs. 'X' against the excise duty of Rs. 'Y' payable on the steel ingots produced therefrom.

The assessee has, with the permission of the excise authorities, followed over a large number of years "the later the better" principal. It does so to save itself and the excise authorities the hassle of making the book entries required by the said notification of taking and giving credit for the excise duty on pig iron when paying excise duty on the steel ingots produced therefrom. Instead, the assessee pays excise duty on the steel ingots that it manufactures and does pay excise duty on the pig iron that it uses in such manufacture. To use the example aforementioned, it pays excise duty of Rs. 'Y' on the steel ingots.

By reason of the use of "the later the better" principle, with the concurrence of the Excise authorities, the assessee cannot be placed in a position more disadvantageous than it would have had it not followed that principle. It cannot be asked to pay excise duty on some theoretical proportion of pig iron that has not been used in the manufacture of steel ingots but has come out, incidentally, as steel scrap. It must be borne in mind that the pig iron is used to produce the steel ingots and not the incidental steel scrap.