

Supreme Court of India

Shree Mahavir Metal Works vs Union Of India (Uoi) And Ors. on 25 August, 1994

Equivalent citations: 1998 (98) ELT 580 SC, (1998) 9 SCC 640

Bench: S Bharucha, S Sen

ORDER

1. The appellant manufactures stainless steel and aluminium utensils. It claims the benefit of an exemption notification (No. 176 of 1977). The only relevant part of this notification for our purpose is the proviso. It states that the exemption shall not be applicable to a manufacturer if the total value of all excisable goods cleared by him or on his behalf in the preceding financial year had exceeded Rs. 30 lakhs. There is no dispute in regard to the clearances of stainless steel and aluminium utensils. The question is whether the scrap that results from the manufacture of stainless steel utensils should or should not be included in the computation to be made for the purpose of the proviso. It is not in dispute that the stainless steel scrap is covered by Tariff Item 26. But, it is urged on behalf of the appellant, stainless steel scrap was not at the relevant time exigible to excise duty by reason of an exemption notification. This Court has in the case of Wallace Flour Mills Co. Ltd. v. CCE, held that excisable goods do not become non-excisable goods merely by reason of an exemption from payment of excise duty given under a notification.

2. Having regard to the judgment in the case of Wallace Flour Mills Co. Ltd. the only point urged on behalf of the appellant must be negatived. The appeal is dismissed. There shall be no order as to costs.