

Supreme Court of India

Precision Machinery Co., Indore vs Collector Of Central Excise, ... on 4 February, 1997

Equivalent citations: 1997 (91) ELT 256 SC, JT 1997 (10) SC 735, (1997) 9 SCC 656

Author: S C Sen

Bench: S Sen, B Kirpal

JUDGMENT Suhas C. Sen, J.

1. The dispute relates to proper interpretation of an Excise Notification No. 310/77-C.E., dated 1-1-1977 1-11-1977 as amended on 4-2-1978 which is as under:

In exercise of the powers conferred by Sub-rule (1) of Rule 8 of the Central Excise Rules, 1944, the Central Government hereby exempts parts of weighbridges falling under Item No. 45 of the First Schedule to the Central Excises and Salt Act, 1944 (1 of 1944), from the whole of the duty of excise leviable thereon if produced in the factory of production of weigh-bridges or elsewhere.

Provided that where the parts of weigh-bridges are produced elsewhere than in the factory of production of such weigh-bridges, the procedure laid down in rule 56A of the Central Excise Rules, 1944 is followed.

2. The contention of the appellant is that it manufactures weigh-bridges and imported some parts for this purpose. It claims that it is entitled to relief under the proviso to the notification.

3. This contention was rejected by the Tribunal. The Tribunal was of the view that the appellant would have been entitled to the relief if the parts were produced in the factory where manufacture of weigh-bridges took place. If the parts were not produced in that factory, the appellant would not get any benefit of the proviso.

4. We are of the view that the manufacturer is entitled to the relief claimed. The operative part of the notification grants full exemption from central excise duty to parts of weigh-bridges wherever produced. This is made clear by the clause "if produced in the factory of production of weigh-bridges or elsewhere". The proviso does not take away the relief granted in the main body of the notification. It merely lays down the procedure for availing of the relief in cases where parts of weigh-bridges were produced elsewhere than in the factory of production. Rule 56A(2) of Central Excise Rules is as under :

(2) The Collector may, on an application made in this behalf and subject to the conditions mentioned in Sub-rule (3) and such other conditions as may from time to time be prescribed by the Central Government, permit a manufacturer of any excisable goods specified under Sub-rule (1) to receive material or component parts or finished product (like Asbestos Cement), on which the duty of excise or the additional duty under Section 3 of the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the countervailing duty), has been paid in his factory for the manufacture of these goods or for more convenient distribution of finished product and allow a credit of the duty already paid on such material or component parts or finished product, as the case may be :

5. The appellant has been denied the relief given in the notification on countervailing duty because countervailing duty was different from duty of excise and is not contained in the list under Rule 56A of the Central Excise Rules, 1944.

6. In our view, this approach is erroneous and frustrates the purpose of the notification. The notification gives relief to parts produced in the factory and also the parts produced elsewhere. For the parts which are not produced in the factory, the procedure laid down in Rule 56A has to be followed.

7. The appellant's claim is that it is liable to pay additional duty of excise (countervailing duty) on the parts which had been utilised in manufacture of weigh-bridges. Therefore, there is no reason to deny it this relief given by notification by following the procedure laid down in Rule 56A.

8. We are of the view that the appellant's contention must be upheld. We set aside the order of the Tribunal and restore the order passed by the Collector dated 19-10-1983.

The appeal is allowed with no order as to costs.