

COLLECTOR OF CENTRAL EXCISE, JAIPUR
v.
M/S. HINDUSTAN ZINC LTD., SINC SMELTER, DEBARI DISTT.
UDAIPUR, RAJASTHAN

MARCH 24, 2004

[S.N. VARIAVA AND H.K. SEMA, JJ.]

Central Excise and Tariff Act, 1985; Exemption Notification No.217/86-CE dated April 2, 1986:

Exemption Notification—Benefits of—Inputs—Lead sheets with header attached thereon—Tribunal holding lead input sheets eligible for benefits of the Notification but not the header—On appeal, Held: Notification exempts inputs only—Since lead/aluminium sheets and not the headers are input, benefits of Notification would only be available to the sheets.

The question which arose in these appeals was as to whether the benefits of Notification No.217/86-CE dated April 2, 1986, issued by the Revenue would be available in respect of Lead/Aluminium sheets with header attached thereto.

Disposing of the appeals, the Court

HELD: 1.1. Notification No.217/86-CE of 1986 only exempts inputs. It also clarifies that machine, machinery, plant equipment, apparatus, tools or appliances used for manufacturing and processing of any goods or bringing about any change in any substance or in relation to a final product shall be excluded from the term "inputs". [526-E]

1.2. Headers whether attached to lead or aluminium sheets are not inputs; since they are not inputs, benefits of the Notification would not be available to headers. But the sheets are inputs; hence they are entitled to the benefits of the Notification. [526-G]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2467 of 1999.

From the Judgment and Order dated 25.1.99 of the Central Excise, Customs and Gold (Control) Appellate Tribunal, New Delhi in F.O. No. E/

A 87/99-B1 in A. No. E/2330 of 1992-B1.

WITH.

C.A. No. 9276 of 2003.

B Ranjeet Kumar, Dileep Tandon, Sanjeev Sen and B.K. Prasad for the Appellant.

A.R. Madhav Rao, Viswanath Shukla, V. Balachandran, Alok Yadav and Rajesh Kumar for the Respondents.

The Judgment of the Court was delivered by

C **S. N. VARIAVA, J.** The question which arises in these two Appeals is whether the Respondents are entitled to the benefit of Notification No. 217/86-CE dated 2nd April, 1986. The Tribunal has, in the impugned Orders without giving any ascertainable reasons, held that the lead input sheet would be eligible to the benefit of the Notification, but the headers would not be eligible to the benefit of the Notification.

D Notification No. 217/86-CE of 1986 only exempts inputs. It also clarifies that machine, machinery, plant equipment, apparatus, tools or appliances used for manufacturing and processing of any goods or bringing about any change in any substance or in relation to a final product shall be excluded from the term "inputs". What is questioned before us is the finding of the Tribunal that the lead anode sheets are eligible to the benefit of the Notification.

E It was fairly admitted that sheets would be an input and that if it is clarified that the Notification only applies to sheets and not to the final product manufactured after headers are fixed to the sheets, the Deptt. will be satisfied. To this there is no objection.

F In our view it is clear that headers whether attached to lead or aluminium sheets are not inputs. As they are not inputs the benefit of the Notification would not be available to headers. However, the sheets are inputs and they would be entitled to the benefit of the Notification.

G These Appeals stand disposed of accordingly. There will be no order as to costs.

S.K.S.

Appeals disposed of.