

Rohit Pulp and Paper Mills Ltd.

Vs

Collector of Central Excise, Baroda

Civil Appeal Nos. 17 and 18 of 1989

(S. Ranganathan, A. M. Ahmadi JJ)

26.04.1990

JUDGMENT

RANGANATHAN, J. -

1. These are two appeals under Section 35-L of the Central Excises and Salt Act, 1944 (hereinafter referred to as 'the Act'). They arise out of the claim of M/s. Rohit Pulp and Paper Mills Ltd. (hereinafter referred to as 'the assessee') for partial exemption from excise duty in respect of the art paper and chromo paper manufactured by it.

2. The assessee is having a factory at Khadki in which different varieties of paper and paper boards are manufactured. The factory does not have a bamboo pulp plant. It uses waste paper and cereal straw which are considered to be unconventional raw materials for the manufacture of paper and paper board. The pulp used by the assessee contains more than 50 per cent weight of pulp made from these unconventional raw materials.

3. 'Paper and paper board' are goods falling under Item 17(1) of the First Schedule to the Act. Two notifications were issued on 1st March, 1984 under Rule 8(1) of the Central Excises Rules, 1944 in respect of the above item. The first of them, being Notification No. 24 of 1984, restricted the excise duty on items falling under the aforesaid item in the manner following :

#S.	Description	Rate	No.
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1.	Printing and writing paper.	10 per cent ad valorem paper plus Rs. 1005 per metric tonne.	
2.	All sorts of paper commonly known as kraft paper.	10 percent ad valorem plus known as kraft paper Rs. 1385 per metric tonne. (including paper and paper boards of the type known as kraft liner or corrugating medium) of a substance equal to or exceeding 65 grammes per square metre.	
3.	Paper board of the following varieties, namely, pulp board valorem plus duplex board and triplex board.	10 per cent ad valorem plus Rs. 1810 per metric tonne.	
4.	Paper and paper boards, other than those specified in S. Nos. 1 to 3.	10 per cent ad valorem plus Rs. 1430 per metric tonne.	

4. The second notification, Notification No. 25 of 1984, is the one with which we are directly concerned here. It provides for a concession in respect of paper and paper boards falling under Item 17(1) of the Schedule, manufactured out of pulp containing not less than 50 per cent by weight of pulp made from materials (other than bamboo, hardwoods, softwoods, reeds or rags) and cleared on or after April 1 in any financial year. The concessional rates prescribed were as below :

#	TABLE-----	S. No.	Description	Rate
1.	(i) Printing and writing paper	Rs. 450 per metric tonne	Provided that the writing paper metric tonne total quantity of clearances, if any, of all varieties of paper and paper boards in the preceding financial year, by or on behalf of a manufacturer, from one or more manufacturers did not exceed 3,000 metric tonnes.	
	(ii) All sorts of paper commonly known as kraft paper (including paper & paper boards of the type known as kraft liners or corrugating medium) of a substance equal to or exceeding 65 grammes per square metre.	Rs. 450 per metric tonne		
	(iii) Others	Rs. 560 per metric tonne		
2.	(i) Printing and writing paper	Rs. 730 per metric tonne	Provided that the writing paper metric tonne total quantity of clearances of all varieties of paper & paper boards in the preceding financial year, by or on behalf of a manufacturer, from one or more factories, or from a factory by or on behalf of one or more manufacturers, exceeding 3,000 metric tonnes but did not exceed 7,500 metric tonnes.	
	(ii) All sorts of paper commonly known as kraft paper (including paper and paper boards of the type known as kraft liners or corrugating medium) of a substance equal to or exceeding 65 grammes per square metre.	Rs. 730 per metric tonne		
	(iii) Others	Rs. 900 per metric tonne		
3.	(i) Printing and writing paper	Rs. 900 per metric tonne	Provided that the total writing paper quantity of clearances of all varieties of paper and paper boards in the preceding financial year, by or on behalf of a manufacturer, from one or more factories or from a factory or on behalf of one or more manufacturers, exceeded 7,500 metric tonnes but did not exceed 16,500 metric tonnes.	
	(ii) All sorts of paper commonly known as kraft paper (including paper & paper boards of the type known as kraft liners or corrugating medium) of a substance equal to or exceeding 65 grammes per square metre.	Rs. 900 per metric tonne		
	(iii) Others	Rs. 1,120 per metric tonne		

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4. [This para, added by Notification No. 92/84 dated 18-4-1984 added another concessional rate where the clearances exceeded 10,500 but did not exceed 24,000 metric tonnes on the same lines as above but this does not need to be set out here]".

5. The grant of the above concessional rates were, however, subject to certain important conditions set out in the provisos to the notification. These provisos read :

"Provided that the factory does not have a plant attached thereto for making bamboo or wood pulp :

Provided further that the exemption contained in this notification shall not apply to cigarette tissue, glassine paper, grease proof paper, coated paper (including waxed paper) and paper of a substance not exceeding 25 grammes per square metre."

6. Another Notification No. 45 of 1985 dated 17-3-1985 has been relied upon in support of the contention of the Union of India and hence this may also be set out here. It prescribed rates on paper and paper board falling under Item 17(1) in the following manner :-

#	-----	S. No.	Description	Rate
1.	(i) Printing and writing paper	10 per cent ad valorem plus Rs. 1505 per metric tonne	coated paper of a substance not exceeding 25 grammes per square metre.	
	(ii) Others	10 per cent ad valorem plus Rs.		

1205 per metric tonne.2. All sorts of paper commonly 10 per cent ad known as kraft paper valorem plus (including Rs. 1930 per metric tonne paper and paper boards of the known as kraft liner or corrugating medium) of a substance equal to or exceeding 65 grammes per square metre.3. Coated paper (including waxed 10 per cent ad paper) and paper of valorem plus a substance Rs 1930 per metric tonne not exceeding 25 grammes per square metre (other than those specified in S. No. 1)4. Glassine paper, cigarette, 10 per cent ad tissue and grease proof valorem plus paper. Rs. 1930 per metric tonne5. Paper board of the following 10 per cent ad varieties, namely, pulp board, valorem plus duplex board and triplex board. Rs. 1810 per metric tonne6. Paper and paper boards, other 10 per cent ad than those specified valorem plus in S. No. 1 to 5. Rs. 1430 per metric tonne-----
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7. The assessee seems initially to have paid excise duty on the goods manufactured by it in terms of Notification No. 24/84 but later seems to have thought of claiming the concessional rates prescribed by Notification No. 25/84. The company was manufacturing art paper and chromo paper. It is common ground that these two types of paper fall under category "printing and writing paper". It is also common ground that these two articles also fall under the description "coated paper" used in the second proviso. Since coated paper is taken by the proviso out of the purview of the Notification No. 25 of 1984, the excise department refused to permit the assessee to avail of this concession in respect of its manufactured goods. This treatment by the excise department has also been confirmed by the Central Excise and Gold Control Appellate Tribunal (CEGAT). The Tribunal disposed of the matter very briefly. It observed :

"37. That brings us to the second question whether art paper and chromo paper were eligible for the exemption granted under notification No. 25 of 1984. We have carefully considered arguments of the appellants. We have perused the Notification No. 24 of 1984 as amended and note that the second proviso excludes from the exemption, among others, coated paper (including waxed paper). There is no denial that art paper and chromo paper are coated papers. It may be correct that these are not, like other papers mentioned in second proviso, industrial varieties of papers and are writing and printing varieties. All the same when the proviso, as it is worded, is clear there is no warrant for us to supply words to the proviso to the notification. We, therefore, find against the appellants in this regard and hold that art and chromo paper would not be eligible for exemption under Notification No. 25 of 1984."

The assessee is aggrieved by this order of the Tribunal and hence the present appeals.

8. Sri K. Parasaran, appearing for the appellant, raises an ingenious contention. He urges that though the expression 'coated paper' has generally a wide connotation and includes coated papers of all varieties, it should be given a restricted meaning in the context in which it appears in the proviso. It is submitted that in the paper business, paper is broadly of two varieties, "industrial paper" and "cultural paper". Paper used for printing or writing is treated as cultural paper. On the other hand, industrial paper is paper which is used for various purposes which may be broadly described as industrial purposes, such as wrapping, packing, sanitary use and the like. It is submitted that though the notification intended to grant a concession to small factories manufacturing paper out of unconventional raw material, it was decided to deny the concession to certain kinds of paper. These exceptions have been set out in the proviso. They are : (1) cigarette tissue, (2) glassine paper, (3) grease proof paper, (4) coated paper (including waxed paper), and (5) paper of substance not

exceeding 25 gm. per square metre in weight (which may be compendiously described as light paper). It is argued that a common strain runs through all these five categories. The trust three varieties, namely, cigarette tissue, glassine paper, and grease proof paper admittedly fall under the category of industrial paper. Likewise, paper of a substance not exceeding 25 gm. per square metre in weight is invariably used for industrial purposes and this is so found by the Tribunal. The word 'coated paper', it is urged, must be read in this context. Since the other items set out in the proviso are items of industrial paper, it stands to reason that though 'coated paper', in a wider sense, may include all categories of coated paper, the denial of concession by the proviso is to be restricted only to coated paper falling under the industrial variety. In other words, it is submitted that the word 'coated paper' should be interpreted by applying the principle of "noscitur a sociis" or on the analogy of the "ejusdem generis" principle. This contention, it is submitted, is reinforced by two considerations. The first is that the government must have had some idea or principle in putting together the exceptions and there is no conceivable principle other than the one enunciated. The second consideration is the addition of the words used in parenthesis along with 'coated paper' viz. "(including waxed paper)". It is pointed out that waxed paper obviously means coated paper because waxed paper is nothing but paper coated with wax and would have anyhow been covered by the exception. Nevertheless, it was considered necessary, it is said, to specifically include it in order to make it clear by this illustration that only industrial paper like waxed paper is taken out from the concession. The words in parenthesis are, in other words, the words, the words illustrative of the limitation to be read into the expression 'coated paper'. It is finally argued that, even if the words of the proviso are capable of being construed in a wider manner so as to deny exemption to all kinds of coated paper, the court should apply the well established principle of construction of taxing statutes that an ambiguous provision should be interpreted in favour of the subject.

9. On the other hand, the learned Solicitor General submits that if there are two possible views of the proviso, the court should not interfere with the conclusion reached by the Tribunal which reflects one of two possible and plausible views. On the interpretation of the proviso, the Solicitor General submits that there is no principle of interpretation by which the plain and natural meaning of the word 'coated paper' can be abridged nor, he says, is there anything in the context to warrant such a limitation. He refutes the suggestion that, in commercial parlance, there is a clear cut distinction between industrial and cultural paper. He does not agree that light paper can only be industrial paper and refers to the terms of the 1985 notification in support. He points out that if coated paper meant only industrial paper, as contended for by the assessee, the expression in parenthesis was totally unnecessary. He submits that there is a distinction between coated paper and impregnated paper. As waxed paper could fall under either of these categories, there was a possibility of some one contending that paper impregnated with wax is not 'coated paper'; that is why it became necessary to add the parenthesis to clarify that both kinds will be 'coated paper'; for the purpose of of the proviso. He submits for these reasons that the view taken by the Tribunal was the correct one and that the appeals should be dismissed.

10. We have considered the contentions urged on both sides and we have come to the conclusion that there is force in the appellant's contentions. All the three notifications we have extracted above draw a distinction between printing and writing paper on the one hand and other types of paper on the other. They also show that the duty on printing and writing paper is generally less than that on the other varieties of paper. Though paper can be classified into various varieties, it does appear that one such classification is between industrial paper and cultural paper. "The Dictionary of Paper" published by the American Paper and Pulp Association (Second Edition) contains the following definition :

"Industrial Papers. - A very general term which is used for to indicate papers manufactured for industrial uses as opposed to those for cultural purposes. Thus, building papers, insulative papers, matching paper etc. would be considered industrial papers whereas writing and printing papers would be cultural papers."

Now the proviso denies the concession extended by Notification No. 25/84 to certain types of papers. It is true that no meticulous reasons can always be made available or discovered for variations in rates of duty as between various types of goods and the absence of some common thread in relation to a set of goods treated alike may not necessarily render the classification irrational or arbitrary. But, at the same time, one can legitimately postulate that the denial of a concession to a group proceeds on the basis of some aspect or feature common to all items in the group. If such a principle can be conceived of which would rationalise the inclusion of all the items, it would be quite reasonable and proper to give effect to a construction of the notification as will accord with that principle. It is this which the appellant has attempted to do and we are inclined to think that the ratiocination of the exceptions suggested, far from being artificial or far-fetched, is a plausible and likely one that the Government could have had in mind and that it should be accepted.

11. As mentioned earlier, the concession of the notification is denied to five kinds of paper. Three of them, undoubtedly and indisputably, are varieties of industrial paper. This is indeed common ground and it has also been supported by reference to the definitions in the Dictionary of Paper and elsewhere which it is unnecessary to set out here. The fourth is what we have referred to as 'light paper' not exceeding a particular weight. On behalf of the assessee, it is contended that this is also only industrial paper. In support of this contention, reference is invited to the tables appended to the Dictionary of Paper which indicate that there cannot be printing and writing paper of weight less than 26 gms. per sq. metre. It is also pointed out that the Tribunal has also given a finding to this effect in para 37 of its order. The learned Solicitor General, on the other hand, points out that S. No. 1(ii) of the 1985 notification itself clearly shows that there can be "printing and writing paper of a substance not exceeding 25 grammes per sq. metre". On behalf of the assessee, on instructions, it is submitted that this classification proceeds on a totally unreal basis and that there is no such printing and writing paper in existence. We cannot, however, assume that the 1985 notification proceeds on an erroneous basis. It is sufficient for our purposes to take it, on the basis of the record in this case, that light paper is, by and large, industrial paper without altogether excluding all possibility that it is used occasionally for cultural purposes also. The classification set out in the 1985 notifications also lends some support to the contentions urged. The five varieties of paper we are concerned with are found in S. Nos. 3 and 4 of this notification and S. Nos. 1 and 3 reflect a contrast between coated paper and light paper used for cultural purposes (Item No. 1) and that used for other (industrial) purposes (Items No. 4). On this basis, then, it is clear that four out of the five varieties of paper which are denied the benefit of the concession seem to constitute industrial paper. In fact even if, as urged for the Union of India, only three of these items are of the industrial variety while the other two could be either, it will not still be unreasonable (though, may be, a little less plausible) to draw an inference that only industrial paper falling in those two categories are intended to be comprehended in the classification rather than assume, for no detectable reason, that all paper of these two varieties alone are excluded from the concession. We think, therefore, that the appellants are on firm ground in submitting that the expression 'coated paper' in the proviso should draw colour from the context in which it is employed and receive an interpretation consistent therewith than its literal one, which in its widest sense, may be comprehensive enough to include all coated paper, industrial or otherwise.

12. The principle of statutory interpretation by which a generic word receives a limited

interpretation by reason of its context is well established. In the context with which we are concerned, we can legitimately draw upon the "noscitur a sociis" principle. This expression simply means that "the meaning of a word is to be judged by the company it keeps." Gajendragadkar, J. explained the scope of the rule in *State of Bombay v. Hospital Mazdoor Sabha* ((1960) 2 SCR 866 : AIR 1960 SC 610 : (1960) 1 LLJ 251) in the following words : (SCR pp. 873-74)

"This rule, according to Maxwell, means that, when two or more words which are susceptible of analogous meaning are coupled together they are understood to be used in their cognate sense. They take as it were their colour from each other, that is, the more general is restricted to a sense analogous to a less general. The same rule is thus interpreted in "Words and Phrases" (Vol. XIV, p. 207) : "Associated words take their meaning from one another under the doctrine of *noscitur a sociis*, the philosophy of which is that the meaning of a doubtful word may be ascertained by reference to the meaning of words associated with it; such doctrine is broader than the *maxim ejusdem generis*". In fact the latter maxim "is only an illustration or specific application of the broader maxim *noscitur a sociis*". The argument is that certain essential features or attributes are invariably associated with the words "business and trade" as understood in the popular and conventional sense, and it is the colour of these attributes which is taken by the other words used in the definition though their normal import may be much wider. We are not impressed by this argument. It must be borne in mind that *noscitur a sociis* is merely a rule of construction and it cannot prevail in cases where it is clear that the wider words have been deliberately used in order to make the scope of the defined word correspondingly wider. It is only where the intention of the legislature in associating wider words with words of narrower significance is doubtful, or otherwise not clear that the present rule of construction can be usefully applied. It can also be applied where the meaning of the words of wider import is doubtful; but, where the object of the legislature in using wider words is clear and free of ambiguity, the rule of construction in question cannot be pressed into service."

This principle has been applied in a number of contexts in judicial decisions where the Court in clear in its mind that the larger meaning of the word in question could not have been intended in the context in which it has been used. The cases are too numerous to need discussion here. It should be sufficient to refer to one of them by way of illustration. In *Rainbow Steels Ltd. v. CST* ((1981) 2 SCC 141 : 1981 SCC (Tax) 90) this Court had to understand the meaning of the word 'old' in the context of an entry in a taxing tariff which read thus :

"Old, discarded, unserviceable or absolute machinery, stores or vehicles including waste products"

Though the tariff item started with the use of the wide word 'old', the Court came to the conclusion that "in order to fall within the expression 'old machinery' occurring in the entry, the machinery must be old machinery in the sense that it has become non-functional or non-usable". In other words, not the mere age of the machinery, which would be relevant in the wider sense, but the condition of the machinery analogous to that indicated by the words following it, was considered relevant for the purposes of the statute.

13. The maxim of *noscitur a sociis* has been described by Diplock, C.J. as a "treacherous one unless one knows the *societas* to which the *socii* belong" (vide : *Letang v. Cooper* ((1965) 1 QB 232 :

(1964) 2 All ER 929)). The learned Solicitor General also warns that one should not be carried away by labels and Latin maxims when the word to be interpreted is clear and has a wide meaning. We entirely agree that these maxims and precedents are not to be mechanically applied; they are of assistance only insofar as they furnish guidance by compendiously summing up principles based on rules of common sense and logic. As explained in Collector of Central Excise v. Parle Exports (P) Ltd. ((1989) 1 SCC 345, 357 : 1989 SCC (Tax) 84) and Tata Oil Mills Co. Ltd. v. CCE ((1989) 4 SCC 541, 545-46 : 1990 SCC (Tax) 22) in interpreting the scope of any notification, the court has first to keep in mind the object and purpose of the notification. All parts of it should be read harmoniously in aid of, and not in derogation of, that purpose. In this case, the aim and object of the notification is to grant a concession to small scale factories which manufacture paper with unconventional raw materials. The question naturally arises : Could there have been any particular object intended to be achieved by introducing the exceptions set out in the proviso ? Instead of proceeding on the premise that it is not necessary to look for any reason in a taxing statute, it is necessary to have a closer look at the wording of the proviso. If the proviso had referred only to 'coated paper', no special object or purpose would have been discernible and perhaps there would have been no justification to look beyond it and enter into a speculation as to why the notification should have thought of exemption only 'coated paper' manufactured by these factories from the purview of the exemption. But the notification excepts not one but a group of items. If the items mentioned in the group were totally dissimilar and it were impossible to see any common thread running through them again, it may be permissible to give the exceptions their widest latitude. But when four of them - undoubtedly, at least three of them - can be brought under an intelligible classification and it is also conceivable that the government might well have thought that these small scale factories should not be eligible for the concession contemplated by the notification where they manufacture paper catering to industrial purposes, there is a purpose in the limitation prescribed and there is no reason why the rationally logical restriction should not be placed on the proviso based on this classification. In our view, the only reasonable way of interpreting the proviso is by understanding the words 'coated paper' in a narrower sense consistent with the other expressions used therein.

14. In the view we have taken it is unnecessary to consider the other contentions urged before us : (i) whether the words "(including waxed paper)" are words indicative of the limitation sought to be placed on the words "coated paper" or they are only intended to make it clear that even paper impregnated with wax will not be entitled to exemption; and (ii) whether, if the notification is capable of two equally plausible interpretations, the one in favour of the subject should be upheld or the one taken by the Tribunal should be confirmed.

15. For the reasons discussed above, we accept the appellant's submission that 'coated paper' in the second proviso refers only to coated paper used for industrial purposes and not to coated varieties of printing and writing paper. The Tribunal's order is set aside and the appellant held entitled to the concessional rates specified in Notification No. 25/84.

16. The appeal is allowed. But we make no order as to costs.

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