

Bombay Oil Industries Ltd.

Vs

Collector of Central Excise, Cochin

Civil Appeal No. 2646 of 1991

(S. P. Bharucha, S. B. Majmudar JJ)

13.02.1997

JUDGMENT

S. P. BHARUCHA, J.

1. The appellants operate at Angamally in Kerala a solvent extraction plant wherein spices like pepper, turmeric, chillies and celery are solvent extracted to produce their respective oleoresins. These are essential oils that are used in the food industries for flavouring and colouring. For the years 1975 to 1985 the appellants availed of the benefit of a Notification (No. 115 of 1975) which read thus :

"Exemption to goods manufactured in factories covered by any of the industries specified. - In exercise of the powers conferred by Rule 8(1) of the Central Excise Rules, 1944, the Central Government hereby exempts goods falling under Item 68 of the First Schedule to the Central Excises and Salt Act, 1944 (1 of 1944), manufactured in factories covered by any of the industries specified in the Schedule hereto annexed, from the whole of the duty of excise leviable thereon :

The Schedule

1. Coir Industry
2. Cashew Industry
3. Tanning Industry
- 4 Oil Mill and Solvent Extraction Industry
5. Rice Milling Industry."

In 1986 the said notification was amended so that Item 4 of the Schedule read thus :

"Oil Mill and Solvent Extraction Industry (other than fixed vegetable oils of Heading No. 15.03 and vegetable fats and oils of Heading No. 15.04)."

2. For the year (sic 1986) the Assistant Collector took the view that the appellants were not entitled to the benefit of the said notification in that they were not manufacturing vegetable oils as commonly known. The Collector (Appeals) allowed the appellants' appeal. In his view, the oil industry and the solvent extraction industry independently and separately would be covered by the

Schedule to the said notification. In the appeal filed by the Revenue the Customs, Excise and Gold (Control) Appellate Tribunal took the contrary view. It held that the addition of the words "solvent extraction" in the said Item 4 of the Schedule to the notification did not have the effect of going beyond the oil industry. The use of the words "solvent extraction" therein at best only helped to clarify the scope of the expression. The words "oil mill" as commonly understood referred to vegetable non-essential oils and whenever the intention was to cover essential oils, those had to be specifically mentioned. The oleoresins and essential oils manufactured by the appellants were, therefore, outside the scope of the said Item 4.

3. The said notification exempts goods manufactured in factories covered by the industries specified in the Schedule. Item 4 of the Schedule specifies the oil mill and solvent extraction industry. It may be that ordinarily an industry of this nature would have both an oil mill and a solvent extraction plant both of which manufacture vegetable oils, but that is no reason, in our view, to place upon the plain words of the notification a narrower meaning than that to which they plainly lend themselves. The notification exempts goods manufactured in the factories of the oil mill and the solvent extraction industry. The appellants' goods are goods manufactured in a solvent extraction plant and must, on the plain words of the notification, receive the benefit of the exemption that it confers.

4. It will be noted that for ten years the appellants' goods received the benefit of the exemption conferred by the said notification. In 1986 the notification was amended so as to exclude fixed vegetable oils of Heading No. 15.03 and vegetable fats and oils of Heading No. 15.04. Had there been any intention to exclude essential oils and oleoresins produced by solvent extraction plants from the scope of the said notification, the amendment thereto would have so specified.

5. We, therefore, are unable to share the view of the Tribunal and must set aside its judgment and order.

6. The appeal is allowed, the judgment and order of the Tribunal under appeal is set aside and the order of the Collector is confirmed. No order as to costs.