

Steel Authority of India Ltd

Vs

Collector of Central Excise, Bolpur, West Bengal

Civil Appeals Nos. 1390-93 of 1990

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

20.02.1997

ORDER

1. The appellant manufactures "pitch creosote mixture" (PCM). This is taxable under Item 11 of the Excise Tariff entries. The relevant entry is quoted below :

"Entry 11(2)

Tar distilled from coal or lignite, and other mineral tars, including partially distilled tars and blends of pitch with creosote oils or with other coal tar distillation products."

2. The contention of the appellant is that PCM should be treated as "tar" falling under Tariff Item 11(2). The lower authority held that PCM and tar were not the same products and, therefore, the appellants were not entitled to get any benefit of the exemption notification which granted exemption only to "tars".

3. The exemption notification is set out hereunder :

"In exercise of the powers conferred by sub-rule (1) of Rule 8 of the Central Excise Rules, 1944, the Central Government hereby exempts tar, falling under Item 11 of the First Schedule to the Central Excises and Salt Act, 1944 (1 of 1944) with effect from the 24th April, 1962, from the payment of the whole of duty of excise leviable thereon.

(Notification No. 121/62-C. E., 13-6-1962 as amended by Notification No. 133/82-C. E., dated 22-4-1982.)"

4. The exemption notification exempts "tar" falling under Item 11 of the First Schedule to the Central Excises and Salt Act, 1944. The meaning of "tar" has to be gathered from the tariff description given in clause (2) of a Tariff Item 11. An inclusive definition has been given to "tar" which includes "partially distilled tars and blends of pitch with creosote oils or with other coal tar distillation products". Therefore, "tar" will include everything which has been included in the extended definition. Having regard to the wording of the notification and wording of the Tariff Item 11, we have no doubt that the product of the assessee (PCM) qualifies for the benefit of the exemption notification. The order of the Tribunal dated 8-8-1989 is set aside. The appeals are allowed. No order as to costs.