

A SOUTH EASTERN COALFIELDS LTD.
v.
COMMISSIONER, CUSTOMS & CENTRAL EXCISE, M.P.

AUGUST 1, 2006

B [ASHOK BHAN AND MARKANDEY KATJU, JJ.]

Central Excises and Salt Act, 1944:

C *s.5A(1)—Notification No. 63/95-CE dated 16.3.1995—Exemption from excise duty to ‘mines’ as defined in s.2(j)(viii) of Mines Act—Workshop established within precincts of mine to facilitate repair of all mining machinery and equipment used in adjacent coalmines and other collieries—Claim for exemption under the Notification—Held, keeping in view the purpose of the notification, the word “precincts” used therein has to be given a broader meaning—And the notification has to be interpreted so as to include within the definition of mine a workshop situated in an area or environs thereof—The workshop is, therefore, entitled to exemption under the notification— Mines Act, 1952—ss. 2(j)(viii) and 82—Interpretation of Statutes—Purposive rule of interpretation.*

E *Words and Phrases:*

“Precincts”—Occurring in Notification No. 63/95-CE dated 16.3.1995— Meaning of.

F **Appellant-assessee established an electrical and mechanical workshop to facilitate repair of all mining machinery and equipment used in the adjacent coal mines and other collieries. Under s.82 of the Mines Act, 1952, the Central Government declared this workshop as a mine. Under s.2(j)(viii) of the Mines Act, ‘mine’ would include “all workshops situated within the precincts of a mine and under the same management and used solely for purposes connected with that mine or a number of**

G **mines under the same management.” By Notification No. 63/95-CE dated 16.3.1995 all goods manufactured in a mine were exempted from duties of excise and additional duties of excise. The assessee was issued a show cause notice for recovery of central excise duty for alleged contravention of Central Excise Rules, 1944 and Notification No. 63/95-CE dated 16.3.1995,**

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stating that, in respect of the workshop, the assessee was not entitled to exemption provided under the said Notification. For contravention of the 1944 Rules interest and penalty was also proposed. The Commissioner did not accept the plea of the assessee that the workshop was situated within the precincts of the mine and, therefore, was entitled to exemption under Notification No. 63/95-CE. He ordered payment of the duty along with interest and penalty. The CEGAT dismissed the appeal of the assessee holding that since the mine was registered under the Factories Act, 1942, it could not have the benefit of the exemption Notification No. 63/95-CE. Aggrieved, the assessee filed the present appeals.

On the question: whether the workshop in question could be said to be situated within the precincts of the mine,

Allowing the appeals, the Court

HELD: 1. The word "precincts" does not have a single meaning, rather it has several meanings. Where the meaning of a word or expression is not clear, obviously the literal rule of interpretation cannot be applied, and hence resort has to be taken to other rules of interpretation. In the present case the purposive rule should be applied, and the word 'precincts' has to be given the broader meaning and not the narrower one. Therefore, the word 'precincts' in the exemption Notification No. 63/95-CE dated 16.3.1995 has to be interpreted to mean the surrounding region or area; or, the surroundings or environs of a place. This is because the purpose of the exemption notification is to grant exemption from excise duty to goods produced in a mine so as to encourage the mining industry. A workshop which is in an area or in the environs of a mine and is existing solely for the purpose connected with the mine and under the same management, is obviously, directly serving the mining operations. Hence, the notification has to be interpreted so as to include such a workshop within the definition of 'mine' for the purpose of grant of exemption, as that would encourage the mining industry. The impugned order is, therefore, set aside. [205-C; F-H; 206-A-B]

Collin's English Dictionary; New Shorter Oxford English Dictionary; P. Ramanath Aiyar's Advance Law Lexicon, 3rd Edn.; Black's Law Dictionary, 7th Edn. – referred to.

2. The present case is covered by the Central Excise Act, 1944 and registration of a mine under the Factories Act has nothing to do with the

A assessee's claim for exemption under the Central Excise Act. In fact the reference to the Factories Act in the present case was wholly irrelevant. Hence the view taken by the Tribunal is clearly erroneous. [204-E-F]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2408 of 2001.

B From the Final Order No. 1929/2000 B dated 30.11.2000 of the Customs, Excise & Gold (Control) Appellate Tribunal, New Delhi, Bench-B, in appeal No. E/2441/99-B.

WITH

C C.A. Nos. 1968-1971 and 8403-8404/2003.

Joseph Vellapally, V. Sridharan, Alok Yadav, Ajit Kr. Sinha, T. Ramesh, S. Nanda Kumar, Muthu Krishnan, Ananda Selvan and Rakesh K. Sharma for the Appellant.

D A.K. Ganguli, Ashok K. Panda, Tufail A Khan, Manpreet S. Doabia and B.K. Prasad for the Respondents.

The Judgment of the Court was delivered by

E MARKANDEY KATJU, J. Civil Appeal No. 2408 of 2001 has been filed against the impugned order dated 30.11.2000 passed by the Customs, Excise and Gold (Control) Appellate Tribunal, New Delhi.

We have heard learned counsel for the parties.

F The facts of the case are that the Central Electrical and Mechanical Workshop at Korba was established by the appellant, M/s. South Eastern Coalfields Ltd., at Korba in 1967 to facilitate repair of all mining machinery and equipment used in the adjacent coal mines and other collieries. The Central Government declared this workshop as a mine under the provisions of Section 82 of the Mines Act, 1952 under certificate dated 1.5.1969.

G Section 2(J)(viii) of the Mines Act states that mine includes "All workshop situated within the precincts of a mine and under the same management and used solely for purposes connected with that mine or a number of mines under the same management."

H Notification No.63/95-CE dated 16.3.1995 was issued by the Central

Government under Section 5A(1) of the Central Excises and Salt Act, 1944 read with sub-section (3) of Section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 exempting all goods manufactured in a mine from duties of excise and additional duties of excise. The explanation to that notification stated that the word "mine" will have same meaning as assigned to it in clause (j) of Section 2 of the Mines Act, 1952. A

A show cause notice was issued to the appellant by the Superintendent of Central Excise, Range-Korba vide office letter dated 3.9.1996 for recovery of central excise duty amounting to Rs.31,59,704/- under the provisions of Rule 9(2) read with Section 11A of the Central Excise Act, 1944, alleging contravention of Rules 9(1), 52A, 53, 173B, 173C, 173G, 174 and 226 read with Notification No.63/95-CE dated 16.3.1995 as amended. Further, for the contravention of the aforesaid Rules imposition of interest and penalty was also proposed. In the show cause notice it was stated that the appellant did not appear to be entitled to the exemption as provided in Notification No.63/95-CE dated 16.3.1995 as amended. B

The appellant submitted its reply to the show cause notice, on 6.10.1998, in which they referred to their earlier letter dated 5.9.1998 submitted with reference to the earlier show cause notice. The appellant was also heard personally. The defence of the appellant was that the workshop is situated within the precincts of a mine and hence was entitled to the exemption under the Notification No.63/95-CE. C

The Commissioner by his order dated 22.6.1999 held against the appellant and ordered the payment of duty amounting to Rs.31,59,704/- as mentioned in the show cause notice and also directed recovery of interest and penalty for contravention of various rules. D

The appellant filed an appeal before the CEGAT, which by order dated 30.11.2000 held that the goods produced by the appellants, were dutiable and the appellant would not be entitled to the exemption contained in the Notification No.63/95-CE. The Tribunal confirmed the demand of excise duty under the order of the Commissioner but set aside the penalty imposed on the appellants. E

In our opinion, this appeal deserves to be allowed. As already stated above, the exemption under Notification No.63/95-CE dated 16.3.1995 exempted all goods manufactured in a mine from excise duty. The Explanation to the exemption notification states that "mine" has the meaning assigned to F

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A it in Section 2(j) of the Mines Act, 1952. Clause (viii) of Section 2(j) of the Mines Act, 1952 defines “mine” to include “all workshops and stores situated within the precincts of a mine and under the same management and used solely for the purposes connected with the mine or a number of mines under the same management”.

B The question, therefore, in this case is that “whether the workshop in question can be said to be situated within the precincts of the mine”.

C Before the Tribunal reliance was placed by the learned counsel for the assessee on an earlier order of the Tribunal in *Central Coalfields Ltd. v. CCE, Jamshedpur* dated 16.9.1997, in which it was held that the word “precincts” cannot be restricted to an area of four Kms. In that case the Tribunal held that the workshop in question was situated within the precincts of the mines to which it was catering, even though it was situated at a distance of 50 Kms. from the said mine.

D In the present case the Tribunal rejected the assessee’s claim for exemption on the ground that since the mine was registered under the Factories Act, it cannot have the benefit of exemption in the Notification No.63/95-CE since as per Section 2(m) of the Factories Act a factory means any premises including the precincts thereof but does not include a mine subject to the operation of the Mines Act, 1952.

E In our opinion the registration of a mine under the Factories Act has nothing to do with the assessee’s claim for exemption under the Central Excise Act. In fact the reference to the Factories Act itself was wholly irrelevant and we fail to see what the Factories Act has to do with the present case. The present case is covered by the Central Excise Act and has nothing to do with the Factories Act. Hence the view taken by the Tribunal is, with due respect to it, clearly erroneous.

F It has to be considered in the present case whether the workshop in question is said to be a workshop within the precincts of a mine.

G The word ‘precincts’ is not a word of clear import which has a single, clear-cut meaning. *Collin’s English Dictionary* defines ‘precincts’ to mean “the surrounding region or area”.

H In the *New Shorter Oxford English Dictionary*, the word ‘precinct’ is shown to have several meanings among which are the following:

“The area within the boundaries (real or imaginary) of a building or place; the grounds; the interior; *esp.* an enclosed or clearly defined area around a cathedral, college, etc. Also, the *surroundings or environs of a place.*” A

In the *Advanced Law Lexicon, 3rd Edition*, by P. Ramanatha Aiyar, the word ‘precinct’ has been shown to have several meanings including a space enclosed by walls or other boundaries. B

In *Black’s Law Dictionary, 7th Edition*, the word ‘precinct’ is defined as follows:

“A geographical unit of government, such as an election district, a police district, or a judicial district.” C

From a perusal of the above definitions, it appears that the word “precincts” does not have a single meaning, rather it has several meanings.

One word can have several meanings, and one meaning can have several words (synonyms). For instance, the word ‘ball’ can mean a round object for playing games like cricket, football, etc; it can also mean a dance; it can also mean having a nice time, etc. Similarly, in Sanskrit the words “kamal”, “pankāj”, “rajeev”, “neeraj”, “jalāj”, “saroj”, etc. have the same meaning i.e. Lotus. D

According to the literal rule of interpretation, if the meaning of a word or expression is clear, there is no scope for interpretation and we have to follow the plain and grammatical meaning. E

However, where the meaning of a word or expression is not clear, obviously the literal rule of interpretation cannot be applied, and hence we have to take resort to other rules of interpretation e.g. the *Heydon’s mischief rule*, the purposive rule, etc. In our opinion in the present case the purposive rule should be applied. Under this rule, we have to see the purpose for which the provision was made. Looking at it from this angle, we are of the opinion that the word ‘precincts’ has to be given the broader meaning and not the narrower meaning. F G

In other words, we have to interpret the word ‘precinct’ in the exemption notification to mean the surrounding region or area, as defined in *Collins English Dictionary* or the surroundings or environs of a place as defined in the *New Shorter Oxford English Dictionary*. This is because the purpose of H

- A the exemption notification is to grant exemption from excise duty to goods produced in a mine so as to encourage the mining industry. A workshop which is in an area in the environs of a mine and is existing solely for the purpose connected with the mine and under the same management, is obviously directly serving the mining operations. Hence, we have to interpret the notification so as to include such a workshop within the definition of a mine
- B for the purpose of grant of exemption, as that would encourage the mining industry.

For the reasons given above the appeal is allowed. The impugned order is set aside. No costs.

- C *Civil Appeal Nos. 1968-1971/2003 & 8403-8404/2003*

In view of the decision in Civil Appeal No. 2408/2001, these appeals are allowed. The impugned orders are set aside. No costs.

R.P.

Appeals allowed.