

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3269 OF 2003

Commissioner of Central Excise, Jaipur

...Appellant(s)

Versus

M/s. Mewar Bartan Nirmal Udyog

...Respondent(s)

WITH

CIVIL APPEAL NOS.1269/2005, 3688/2005, 3636/2006, 1477/2007,  
2725/2007, 383/2008 AND CIVIL APPEAL NO.5988/2008  
(Arising out of SLP(C) No.6398/2007)

ORDER

In C.A.No.3269/2003:

The short controversy which arises for determination in this Civil Appeal is: Whether the respondent-assessee was entitled to claim benefit of exemption Notification No.3/2001-CE, dated 1.3.2001?

The assessee claims exemption under S.No.200 of the said Notification which claim was denied by the Department on the ground that trimmed or untrimmed circles of brass cannot fall under S.No.200 but they fall under S.No.201 where rate of duty is Rs.3500 PMT. It may be stated that if the product in question falls under S.No.200, then the rate of duty is nil. This is the narrow controversy in the present case.

To resolve this dispute, we quote hereinbelow relevant extract

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of Notification No.3/2001-CE, dated 1.3.2001.

S.No.	Chapter or heading No. or sub-heading No.	Description of goods	2		Condition No.
			Rate under the First Schedule	Rate under the Second Schedule	
200	74.09	All goods other than trimmed or untrimmed sheets of circles of copper,	Nil	-	32
					If such goods are not produced or manufactured by

intended for use in  
the manufacture of  
utensils or  
handicrafts

a manufacturer  
who produces or  
manufactures

copper from  
copper ore or  
copper  
concentrate.

201 74.09 Trimmed or Rs.3500  
untrimmed sheets of per  
circles of copper, metric  
intended for use in tonne  
the manufacture of  
handicrafts or  
utensils

-

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If,-  
(a) no credit of  
duty paid on  
inputs under rule  
57AB or rule  
57AK of the  
Central Excise  
Rules, 1944 has  
been taken;  
(b) the entire  
amount of duty is  
paid in cash or  
through account-  
current; and (c)  
such goods are  
not produced or  
manufactured by  
a manufacturer  
who produces or  
manufactures  
copper from  
copper ore or  
copper  
concentrate:

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Provided that the  
duty shall not be  
payable by a  
manufacturer  
who produces or  
manufactures  
trimmed sheets  
or circles from  
duty paid  
untrimmed sheets  
or circles.

In this case it is not disputed by the Department before the  
Tribunal that the circles manufactured by the assessee are from brass.  
According to the Department, brass is an alloy of copper/zinc and,  
consequently, trimmed or untrimmed circles of brass used in the  
manufacture of utensils would also fall in the Entry at S.No.201 of the  
Notification and, therefore, the assessee was liable to pay duty on such

goods at the rate of Rs.3500 PMT. We find no infirmity in the impugned order of the Tribunal. On comparing the two Entries, it is clear that if the goods in question are goods other than trimmed or untrimmed circles of copper, intended for use in the manufacture of utensils, then what is attracted is the nil rate of duty under Entry at S.No.200. In this case, we are concerned with interpretation of Entries in the Notification. The exemption Notification covers goods which squarely falls under Chapter Heading 74.09. In fact, both S.No.200 and S.No.201 of the Notification deal with Chapter Heading 74.09. However, while giving exemption, a dichotomy is created between

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trimmed/untrimmed sheets of copper which attracts duty at the rate of Rs.3500 PMT on one hand and, on the other, all goods other than trimmed/untrimmed circles of copper intended for use in the manufacture of utensils which attract nil rate of duty. In this case, circles manufactured by the assessee are made from brass. Therefore, in our view, S.No.200 would apply and the assessee would be entitled to claim nil rate of duty under the said Notification.

We may also point out at this stage that it is well settled position in law that exemption Notification has to be read strictly. A notification of exemption has to be interpreted in terms of its language. Where the language is plain and clear, effect must be given to it. While interpreting the exemption notification, one cannot go by rules of interpretation applicable to cases of classification under the Tariff. Tariff items in certain cases are required to be interpreted in cases of classification disputes in terms of HSN, which is the basis of the Tariff. In this case, we are not concerned with interpretation of Tariff. In fact, as stated above, the product in question falls under Chapter Heading 74.09. It is the dichotomy which is introduced by the exemption Notification which needs to be interpreted. Items made from copper attract duty at the rate of Rs.3500 PMT whereas circles made from brass attract nil rate of duty. As stated above, in this case, the Department has not disputed the fact that the circles were



