CASE NO.:
Appeal (civil) 6826 of 1999

PETITIONER:
Commissioner of central excise, hyderabad

RESPONDENT:
Sunder Steels Ltd.

DATE OF JUDGMENT: 09/02/2005

BENCH:
S.N. Variava & Dr. AR. Lakshmanan & S.H. Kapadia

JUDGMENT:
JUDGMENT

ORDER

This Appeal is against the Judgment of the Customs, Excise and Gold (Control) Appellate Tribunal dated 11th June, 1999.

The question for consideration is whether the Respondents (herein) are entitled to the benefit of Notification No. 30/97-C.E. dated 1st August, 1997. The relevant portion of the said Notification reads as follows:-

"G.S.R. 445 (E) - In exercise of the powers conferred by sub-section (1) of Section 3A of the Central Excise Act, 1944 (1 of 1944), the Central Government having regard to the nature of the process of manufacture or production of ingots and billets of non-alloy steel falling under sub-heading Nos. 7206.90 and 7207.90 of the schedule to Central Excise Tariff Act, 1985 (5 of 1986), manufactured or produced in an induction furnace (hereinafter referred to as such goods), the extent of evasion of duty in regard to such goods and on being satisfied that it is necessary to safeguard the interest of revenue, hereby specifies such goods as notified goods, on which there shall be levied and collected duty of excise in accordance with the provisions of the said Section 3A.

Explanation:- Nothing contained in this notification shall apply to:

(a) .....

(b) .....

(c) .....

(d) .....

(e) an integrated steel plant which manufactures or produces ingots or billets and rolled products, starting from the stage of iron ore, within the same premises."

Facts not in dispute are that the Respondents have a manufacturing unit which has capacity to manufacture or produce ingots or billets or rolled products, starting from the stage of iron ore, within the same premises. However, it appears that during the relevant period the Respondents were producing sponge iron approximately 3,500 to 4,000 Per M.T. of which they used only 452.38 M.Ts. for production of M.S. Ingots. During this period they also purchased 14093 M.Ts. of sponge iron which they then used for production of Ingots. Thus, almost 96% of the production of Ingots was from out of sponge iron which was not produced by the Respondents within the factory. As 96% of the production was not from sponge iron produced in the factory, the Respondents were denied of the benefit of the concerned Notification. They are sought to be taxed under Section 3-A of the Central

Excise Act, 1944 (as it then was) on the basis of installed capacity.

The Tribunal has, by the impugned Judgment, held that the Notification does not require that 100% of the Ingots or billets or other rolled products must be manufactured from the stage of iron ore in the factory itself. It is held that merely because the majority of sponge iron is purchased from outside, the benefit of the Notification is not lost.

We are thus required to interpret clause (e) of Notification which has been set out hereinabove. In our view under clause (e) the following conditions must be fulfilled :

(a) The Assessee must be an integrated steel plant;

(b) They must manufacture or produce ingots or billets or rolled products;

(c) Such manufacture or production must be starting from the stage of iron ore; and

(d) the manufacture or production must be within the same premises.

It could not be denied that to the extent of at least 4% of their annual production the Respondents met all four conditions. The only submission on behalf of the Revenue is that because the majority of the production is from sponge iron bought from outside the benefit is lost.

The Notification has to be interpreted on its wording. No words, not used in the Notification can be added. To accept submission of Appellants one would have to read into the Notification words to the effect that 100% of the manufacture or production of ingots or billets or rolled products must be from products manufactured or produced within the same premises. No such words appear in the Notification. If the intention was to restrict benefit to only those plants in which the entire production from iron ore stage to ingots was to be in the same premises the Notification would have so specified. The Notification does not even provide that if any item is purchased from outside then the benefit would be lost. In the absence of any such restrictions it must be held that the Notification merely requires that all the four conditions be fulfilled. If all four conditions are fulfilled, their benefit cannot be denied on the ground that certain percentage of production is from material purchased from outside. As in this case all four conditions are fulfilled, in our view, the Tribunal was right in holding that the benefit of the Notification was available.

We, therefore, see no reason to interfere. The Civil Appeal is dismissed. There shall be no order as to costs.