

GIB/DL/INDIAN ALUMINUM/19-04-1995/SC-12

Supreme Court Category : Others

State : Delhi

Order No.: GIB/DL/INDIAN ALUMINUM/19-04-1995/SC-12

Name of Entry :

Indian Aluminum Co. Ltd AndAnr

Date : 19-04-1995

Breif Issue :

Facts & Issues of Cases:

Indian Aluminium Co. Ltd. And Anr is the Respondent and manufactures aluminium products such as aluminium sheets, aluminium shapes, aluminium angles etc. out of aluminium ingots. In the process of manufacture, at the stage of processing, dross and skimmings arise and accumulate in the furnace in the shape of ashes as a result of oxidation of metal. These ashes are formed mainly during the melting down of aluminium ingots and, to some extent, during subsequent treatment and holding operation of molten baths in the furnace.

Dross consists mostly of oxides, non-metallic material and other foreign material which separates or forms during melting and holding operations, and finally accumulates on the surface of the molten bath. It has to be removed. Skimmings are mostly thin oxide layers obtained by skimming a molten bath prior to metal transfer on casting. The skimming operation is essential to the manufacturing process. Dross and skimmings, according to the assessee, represent a process-loss or a melt-loss. Aluminium dross and skimmings contain a certain amount of metal from which they come. But they lack not only metal body but also metal strength, formability and character. Such dross and skimmings are, therefore, distinct from scrap which is a metal of as good a quality as the prime metal form which it arises.

All these appeals have been filed at the instance of the Union of India and the Collector of Central Excise. In all these appeals, the question of exigibility of such aluminium dross and skimmings to excise duty was raised.

The entire quantity of raw material, namely, duty-paid aluminium ingots procured by the assesses from outside was used in the manufacture of aluminium sheets. It is nobody's case that the aluminium sheets which were manufactured by the assesseees could have been manufactured out of a lesser quantity of aluminium ingots than what was actually used. In the process of manufacture, dross and skimmings had to be removed in order that aluminium sheets of the requisite quality could be manufactured. This does not mean that the entire quantity of aluminium ingots was not used for the manufacture of aluminium sheets. In the course of manufacture, a certain quantity of raw material may be lost because of the very nature of the process of manufacture or some small quantity of raw material may form part of wastage or ashes. This does not mean that the entire raw material was not used in the manufacture of finished excisable products. An exact mathematical equation between the quantity of raw material purchased and the raw material found in the finished product is not possible, and should not be looked for.

The 'manufacturing loss' forms part of the raw material 'used' in the manufacture though not reflected in the final product. The relief, as we understand the notification that has to be given to the manufacturer was in respect of the duty already paid on the raw material used in the manufacture of the final product. That is, the relief has to be given to the extent of the duty paid on the input material and not with reference to the quantity which ultimately forms part of the final product."

Decision of Advance Ruling Authority :

Decision:

The court observed that an exact mathematical equation between the quantity of raw material purchased and the raw material found in the finished product is not possible, and should not be looked for. Therefore, credits to these lost inputs cannot be denied