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UNION OF INDIA & ORS.

v.

M/S MODI RUBBER LIMITED

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AUGUST 18, 1986

[P.N. BHAGWATI C.J., V. KHALID AND G.L. OZA, JJ.]

Exemption from duty in special cases—Government issuing two Notifications on 1.8.74 and 1.3.1981 using the expression "duty of excise"—Whether the said expression is limited to basic "duty of excise" levied under the Central Excise and Salt Act, 1944 or it covers also "special duty of excise" levied under various Finance Acts, additional duty levied under the Additional Duty of Excise (goods of special importance) Act, 1957 or any other kind of auxiliary duty of excise levied under a Central enactment.

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The manufacture of tyres is subject to duty of excise under the Central Excise and Salt Tax Act, 1944. Section 3(1) of this Act provides that there shall be levied and collected in such manner as may be prescribed by Rules made under the Act duties of excise on all excisable goods other than salt which are produced and manufactured in India. The word duty for the purposes of these Rules is defined in clause (v) of Rule 2 to mean "the duty payable under section 3 of the Act." Section 8(1) authorises the Central Government to exempt from duty in special cases by Notifications made thereunder. As such the exemption which the Central Government can grant by issuing Notification under sub-rule (1) of Rule 8 of the Act can only be from the whole or any part of the duty of excise payable under section 3 of the Act.

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Since 1963 special duty of excise was levied *inter alia* on manufacture of tyres from year to year up to 1971 by various Finance Acts passed from time to time. The levy of special duty of excise was discontinued from 1972 until 1978 when it was again revised by the Finance Act, 1978. Thereafter, it continued to be levied from year to year.

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By virtue of the powers vested in it, the Central Government issued the Notification No. 123/74/C-E dated August 1, 1974. The assessee which manufactured "tyres" and who is eligible to exemption under the said Notification, submitted, prior to 9.11.1979, classification list in

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A terms of Rule 173B of the Central Excise Rules, 1944 and paid excise duty on the basis that the Notification dated August 1, 1974 granted partial exemption only in respect of basic excise duty levied under the Act and did not claim any such exemption in respect of special duty of excise. However, on 9.11.1979 the assessee, while submitting its classification list contended that by reason of the Notification dated 1.8.74 the assessee was exempted from payment not only in respect of basic excise duty levied under the Act but also in respect of special duty of excise levied under the relevant Finance Acts because the language used in the Notification was not restrictive and it referred generally "to duty of excise" without any qualification and it, therefore, covered all duties of excise whether levied under the Central Excise and Salt Act, 1944 or C under any other Central enactment. The Assistant Collector of Central Excise rejected the claim and the assessee being aggrieved filed a writ petition before the Delhi High Court. The Central Government issued under Notification No. 27/81/C-E dated 1.3.81, during the pendency of the writ petition, resulting in the amendment of the writ petition so as to D bring the question of interpretation of the second Notification as well.

The Delhi High Court upheld the contention of the assessee. Meanwhile Parliament also enacted the Central Excise Laws (Amendment and Validation) Act 1982 laying down statutory rules which should guide the court in interpreting Notifications granting exemption E from payment of duty of excise etc. Hence the writ petition by the assessee challenging the constitutional validity of the 1982 Amendment and Validation Act and the appeal by Revenue after obtaining special leave.

Allowing the appeal and dismissing the writ petitions, the Court,

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HELD: 1. The Central Excise Laws (Amendment and Validation) Act, 1982 is merely declaratory of the existing law and hence its constitutional validity cannot be assailed. [601B-C]

2. Under the Notifications dated 8th November, 1967, Ist August, G 1974 and Ist March, 1981 the assessee is entitled to exemption only in respect of the basic duty of excise leviable under the Central Excise and Salt Act, 1944 and are not entitled to claim any exemption in respect of special duty of excise or additional duty of excise or auxiliary duty of excise. [601D]

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3.1 The Notifications dated Ist August, 1974 and Ist March, 1981

are issued under Rule 8(1) of the Central Excise Rules, 1944 and since the definition of "duty" in Rule 2 Clause (v) must necessarily be projected in Rule 8(1) and the expression "duty of excise" in Rule 8 (1) must be read in the light of that definition, the same expression used in these two Notifications issued under Rule 8(1) simpliciter, without anything more must also be interpreted in the same sense, namely, duty of excise payable under the Central Excise and Salt Act, 1944 and the exemption granted under both these Notifications must be regarded as limited only to such duty of excise. [598D-F]

3.2 Merely because, as a matter of drafting, the Central Government has in some other Notifications specifically referred to the excise duty in respect of which exemption is granted as "duty of excise" leviable under the Central Excise and Salt Act, 1944, it does not follow that in the absence of such words of specificity in the 1974 and 1981 Notifications, the expression "duty of excise" standing by itself must be read as referring to all duties of excise. The legislature sometimes, with a view to making its intention clear beyond doubt, uses language *ex abundanti cautela* though it may not be strictly necessary and even without it the same intention can be spelt out as a matter of judicial construction and this would be more so in case of subordinate legislation by the executive. [596F-H]

3.3 Further the expression "duty of excise" in the Notification dated Ist August 1974 could not possibly be read as comprehending special duty of excise which did not exist at the date of this Notification and came to be levied almost four years later. It is only when a new duty of excise is levied, whether special duty of excise or auxiliary duty of excise or any other kind of duty of excise, that a question could arise whether any particular article should be exempted from payment of such duty of excise and the Central Government would then have to apply its mind to this question and having regard to the nature and extent of such duty of excise and the object and purpose for which it is levied and the economic situation including supply and demand position then prevailing, decide whether exemption from payment of such excise duty should be granted and if so, to what extent. [597F-G; 598B-C]

3.4 Undoubtedly, by reason of sub-section 4 of section 32 of the Finance Act, 1979 and similar provision in the other Finance Acts, Rule 8(1) would become applicable empowering the Central Government to grant exemption from payment of special duty of excise, but when the Central Government exercises this power, it would be doing so under

Rule 8(1) read with sub-section 4 of section 32 or other similar provision. The reference to the source of power in such a case would not be just to Rule 8(1), it does not of its own force and on its own language apply to granting of exemption in respect of special duty of excise, but the reference would have to be to Rule 8(1) read with sub-section 4 of section 32 or other similar provision. Therefore, whether a Notification granting exemption is issued only under sub-rule (1) of Rule 8 of the Central Excise Rules 1944 without reference to any other statute making the provisions of the Central Excise and Salt Act, 1944 and the Rules made thereunder applicable to the levy and collection of special, auxiliary or any other kind of excise duty levied under such statute, the exemption must be read as limited to the duty of excise payable under the Central Excise and Salt Act, 1944 and cannot cover such special, auxiliary or other kind of excise. In the instant case, the Notifications were issued under sub-rule (1) of Rule 8 of the Central Excise Rules 1944 simpliciter without reference to any other statute. [599C-D; 600D-E]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 415-419 of 1983.

From the Judgment and Order dated 6.8.1982 of the Delhi High Court in C.W.P. Nos. 1773 of 1979, 1517, 2156, 2410 and 2411 of 1981.

and

WRIT PETITION NO. 498 OF 1983
Under Article 32 of the Constitution of India.

K. Parasaran, Attorney Gen., M. Chandrasekharan and C.V.S. Rao for the Appellants in C.A. Nos. 415-419 of 1983 and Respondents in Writ Petition No. 498 of 1983.

Soli J. Sorabji, H. Salve, T.M. Ansari and Ravindra Narain for the Respondent in C.A. Nos. 415-419 of 1983 and for the Petitioners in Writ Petition No. 498 of 1983.

The Judgment of the Court was delivered by

BHAGWATI, CJ. These appeals and writ petition raise a short question of the construction of the expression "duty of excise" employed in two Notifications issued by the Government of India under sub-rule (1) of Rule 8 of the Central Excise Rules 1944, one bearing No. 123/74-C.E. dated Ist August 1974 and the other bearing No. 27/81-C.E. dated Ist March 1981. The question is whether this expression is

mited in its connotation only to basic duty of excise levied under the Central Excise and Salt Act 1944 or it also covers special duty of excise levied under various Finance Bills and Acts, additional duty of excise levied under the Additional Duty of Excise (goods of special importance) Act 1957 and any other kind of Duty of excise levied under a Central enactment. If this question is decided in favour of the assessee and it is held, accepting the contention of the assessee, that the expression "duty of excise" in the two Notifications is not confined only to the basic duty of excise levied under the Central Excise and Salt Act 1944 and but also comprises special duty of excise, additional duty of excise or any other kind of duty of excise, a further contention is raised on behalf of the assessee challenging the constitutional validity of the Central Excise Laws (Amendment and Validation) Act 1982 by which Parliament sought to lay down certain statutory rules for interpretation for arriving at the true meaning and content of the expression "duty of excise" in the Notifications issued under sub-rule (1) of Rule 8 of the Central Excise Rules 1944 and which consequentially had the effect of restricting the meaning and connotation of the expression "duty of excise" in the two Notifications in question to basic duty of excise levied under the Central Excises and Salt Act 1944. The facts giving rise to these appeals and writ petition are few and may be briefly stated as follows:

The assesse in these appeals and writ petition is a limited company which manufactures tyres. The manufacture of tyres is subject to duty of excise under the Central Excise and Salt Act 1944. Section 3 sub-section(i) of this Act provides that there shall be levied and collected in such manner as may be prescribed by Rules made under the Act duties of excise on all excisable goods other than Salt which are produced and manufactured in India as and at the rates Set-Forth in the First Schedule. The First Schedule enumerates various items of goods which are liable to duty of excise and also Set-Forth the rate at which the duty of excise shall be charged on those goods. Item 16 in the First Schedule reads: "Tyres and Tubes" and the manufactures of tyres is therefore is liable to excise duty at the rates Set-Forth in the First Schedule. Section 37 of the Act confers power on the Central Government to make rules for carrying into effect the purposes of the Act and in exercise of this power the Central Government has made the Central Excise Rules 1944. Rule 8 of these Rules is material for the determination of the question of interpretation which arises in these appeals and writ petition and we may therefore reproduce it in extenso:

"Rule 8. Power to authorise exemption from duty in spe-

A cial cases—(1) The Central Government may from time to time, by notification in the Official Gazette, exempt (subject to such conditions as may be specified in the notification) any excisable goods from the whole or any part of duty leviable on such goods.

B (2) The (Central Board of Excise and Customs) may by special order in each case exempt from the payment of duty, under circumstances of an exceptional nature, any excisable goods."

The word "duty" for the purposes of these Rules is defined in Clause C (v) of Rule 2 to mean "the duty payable under section 3 of the Act" and obviously therefore the exemption which the Central Government can grant by issuing Notification under sub-rule (1) of Rule 8 can only be from the whole or any part of the duty of excise payable under Section 3 of the Central Excise and Salt Act 1944.

D It seems that the Central Government issued Notifications from time to time under sub-rule (1) of Rule 8 exempting various categories of excisable goods from the whole or any part of the excise duty leviable on such goods. So far as tyres are concerned, a Notification bearing No. 123/74-C.E. dated 1st August 1974 was issued by the Central E Government exempting tyres for motor vehicles from a part of the excise duty leviable thereon and since it is this Notification which *inter alia* falls for construction, it would be desirable to set it out in full:

Notification No. 123/74-C.E. dated 1st August 1974

F "In the exercise of the powers conferred by sub-rule (1) of Rule 8 of the Central Excise Rules, 1944, the Central Government hereby exempts tyres for motor vehicles falling under sub-item (1) of Item No. 16 of the First Schedule to the Central Excises and Salt Act, 1944 (1 of 1944), from so much of duty of excise leviable thereon as is in excess of G fifty-five per cent *ad valorem*."

Subsequently, another Notification bearing No. 27/81-C.E. dated 1st March 1981 was issued by the Central Government in respect of tyres for two-wheeled and three-wheeled motor vehicles, power cycles, power cycled rickshaws, tractors and trailors exempting these goods H "from so much of the duty of excise leviable thereon as is in excess of

the duty specified in the corresponding entry in Col. 5" of the Table annexed to this Notification. A

Now since 1963 special duty of excise was levied *inter alia* on manufacture of tyres from year to year up to 1971 by various Finance Acts passed from time to time. The levy of special duty of excise was discontinued from 1972 until 1978 when it was again revived by the Finance Act 1978. Thereafter, it continued to be levied from year to year right up to the period with which we are concerned in the present appeals and writ petition. The provisions levying special duty of excise in these various Finance Acts were in almost identical terms and it would therefore be sufficient if we reproduce the relevant provision in only one of the Finance Acts. We propose to refer to the Finance Act 1979 since that is the Finance Act which was in operation when the present controversy in regard to the interpretation of the expression "duty of excise" arose between the assessee and the Revenue. Section 32 of the Finance Act 1979 provided as follows: B C D

> 32. Special Duties of excise-(1) In the case of goods chargeable with a duty of excise under the Central Excises Act as amended from time to time, read with any notification for the time being in force issued by the Central Government in relation to the duty so chargeable there shall be levied and collected a special duty of excise equal to five per cent of the amount so chargeable on such goods. E
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> (2) Sub-Section (1) shall cease to have effect after the 31st day of March, 1980, except as respects things done or omitted to be done before such cesser; and Section 6 of the General Clauses Act, 1897, shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act. F
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> (3) The special duties of excise referred to in sub-section (1) shall be in addition to any duties of excise chargeable on such goods under the Central Excises Act, or any other law for the time being in force. G
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> (4) The provisions of the Central Excises Act and the rules made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the special duties of H

A excise leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules as the case may be.

B The Finance Acts from 1973 to 1976 also levied auxiliary excise duty on various categories of excisable goods including tyres but the levy of auxiliary excise duty was discontinued with effect from 1977 and we are, therefore, not concerned with it so far as the present appeals and writ petition are concerned.

Prior to 9th November 1979 the assessee submitted classification C list in terms of Rule 173 B of the Central Excise Rules, 1944, and paid excise duty on the basis that the Notification dated 1st August 1974 granted partial exemption only in respect of basic excise duty levied under the Central Excise and Salt Act 1944 and did not claim any such exemption in respect of special duty of excise. However, on 9th D November 1979 the assessee, while submitting its classification list, contended that by reason of the Notification dated 1st August 1974 the assessee was exempted from payment not only in respect of basic excise duty levied under the Central Excise and Salt Act 1944 but also in respect of special duty of excise levied under the relevant Finance Acts, because the language used in this Notification was not restrictive E and it referred generally to "duty of excise" without any qualification and it therefore covered all duties of excise whether levied under the Central Excise and Salt Act 1944 or under any other Central enactment. This contention was advanced by the assessee in relation to the period from 9th November 1979 to October 1982. The Assistant Collector of Excise however, rejected this contention and held that the F term "duty of excise" in the Notification dated 1st August 1974 referred merely to the basic duty of excise levied under the Central Excise and Salt Act 1944 and the exemption granted under that Notification was not available in respect of special duty of excise levied under the Finance Acts. The assessee thereupon filed a writ petition in the Delhi High Court challenging the order of the Assistant Collector of Excise. G During the pendency of this writ petition, the Notification dated 1st March 1981 was issued by the Central Government and the assessee was therefore constrained to amend the writ petition so as to bring the question of interpretation of this Notification also before the court. The Delhi High Court by a Judgment delivered on 6th August 1982 upheld the contention of the assessee and took the view that the expres- H sion "duty of excise" in the two Notifications dated 1st August 1974

and 1st March 1981 included not merely basic duty of excise levied under the Central Excise and Salt Act 1944 but also special duty of excise levied under the various Finance Acts and any other duty or duties of excise levied under Central enactment. The Central Government was of the view that the Delhi High Court judgment was erroneous and it accordingly preferred the present appeals after obtaining special leave from this Court. Meanwhile, Parliament also enacted the Central Excise Laws (Amendment and Validation) Act 1982 laying down statutory rules which should guide the court in interpreting Notifications granting exemption from payment of duty of excise and prescribing the conditions on which a Notification granting exemption from payment of duty of excise can be construed as applicable to duty of excise levied under any Central law making the provisions of the Central Excise and Salt Act 1944 and the Rules made thereunder applicable to the levy and collection of duty of excise under such Central Law. Since this enactment had the effect of limiting the interpretation of the expression "duty of excise" in the two Notifications dated Ist August 1974 and Ist March 1981 to the basic duty of excise levied under Central Excise and Salt Act 1944 and excluding from its coverage special duty of excise levied under various Finance Acts, the assessee filed the present writ petition challenging the constitutional validity of this enactment. That is how the present appeals and writ petition have come up for hearing before us.

The first question that arises for consideration on these facts is as to what is the true import of the expression "duty of excise" in the notifications dated 1st August 1974 and 1st March 1981. It is only if this expression is held to include duties of excise leviable not only under the Central Excise and Salt Act, 1944 but also under any other enactments that the question would arise whether the Central Laws (Amendment and Validation) Act, 1982 is constitutionally invalid. We, therefore, asked the learned counsel appearing on behalf of the parties to confine their arguments only to the first question of interpretation of the expression "duty of excise" in the notifications dated 1st August 1974 and 1st March 1981.

Both these Notiifications, as the opening part shows, are issued under Rule 8(1) of the Central Excise Rules, 1944 and since the definition of 'duty' in Rule 2, cl. (v) must necessarily be projected in Rule 8(1) and the expression 'duty of excise' in Rule 8(1) must be read in the light of that definition, the same expression used in these two Notifications issued under Rule 8(1) must also be interpreted in the same

A sense, namely, duty of excise payable under the Central Excise and Salt Act, 1944 and the exemption granted under both these Notifications must be regarded as limited only to such duty of excise. But the respondents contended that the expression 'duty of excise' was one of large amplitude and in the absence of any restrictive or limitative B words indicating that it was intended to refer only to duty of excise leviable under the Central Excise and Salt Act, 1944, it must be held to cover all duties of excise whether leviable under the Central Excise and Salt Act, 1944 or under any other enactment. The respondents sought to support this contention by pointing out that whenever the Central Government wanted to confine the exemption granted under a notification to the duty of excise leviable under the Central Excise and C Salt Act, 1944, the Central Government made its intention abundantly clear by using appropriate words of limitation such as "duty of excise leviable .....under section 3 of the Central Excise and Salt Act, 1944" or "duty of excise leviable ..... under the Central Excise and Salt Act, 1944" or "duty of excise leviable ..... under the said Act" as in the D Notification No. CER-8(2)/55-C.E. dated 17th September 1955, Notification No. 255/77-C.E. dated 20th July 1977, Notification No. CER-8(1)/55-C.E. dated 2nd September 1955 Notification No. C.E.R.-8(9)/55-C.E. dated 31st December 1955, Notification No. 95/61-C.E. dated 1st April 1961, Notification No. 23/55-C.E. dated 29th April 1955 and similar other notifications. But, here said the respon- E dents, no such words of limitation are used in the two Notifications in question and the expression "duty of excise" must, therefore, be read according to its plain natural meaning as including all duties of excise, including special duty of excise and auxiliary duty of excise. Now, it is no doubt true that in these various notifications referred to above, the Central Government has, while granting exemption under Rule 8(1), F used specific language indicating that the exemption, total or partial, granted under each such notification is in respect of excise duty leviable under the Central Excise and Salt Act, 1944. But, merely because, as a matter of drafting, the Central Government has in some notifications specifically referred to the excise duty in respect of which exemption is granted as 'duty of excise' leviable under the Central G Excise and Salt Act, 1944, it does not follow that in the absence of such words of specificity, the expression 'duty of excise' standing by itself must be read as referring to all duties of excise. It is not uncommon to find that the legislature sometimes, with a view to making its inention clear beyond doubt, uses language *ex abundanti cautela* though it may not be strictly necessary and even without it the same intention can be H spelt out as a matter of judicial construction and this would be more so

in case of subordinate legislation by the Executive. The officer drafting a particular piece of subordinate legislation in the Executive Department may employ words with a view to leaving no scope for possible doubt as to its intention or sometimes even for greater completeness, though these words may not add anything to the meaning and scope of the subordinate legislation. Here, in the present Notifications, the words 'duty of excise leviable under the Central Excise and Salt Act, 1944' do not find a place as in the other Notifications relied upon by the respondents. But, that does not necessarily lead to the inference that the expession 'duty of excise' in these Notifications was intended to refer to all duties of excise including special and auxiliary duties of excise. The absence of these words does not absolve us from the obligation to interpret the expression 'duty of excise' in these Notifications. We have still to construe this expession—what is its meaning and import—and that has to be done bearing in mind the context in which it occurs. We have already pointed out that these Notifications having been issued under Rule 8(1), the expression 'duty of excise' in these Notifications must bear the same meaning which it has in Rule 8(1) and that meaning clearly is—excise duty payable under the Central Excise and Salt Act, 1944 as envisaged in Rule 2 clause (v). It cannot in the circumstances bear an extended meaning so as to include special excise duty and auxiliary excise duty.

Moreover, at the date when the first Notification was issued, namely, 1st August 1974, there was no special duty of excise leviable on tyres. It came to be levied on tyres with effect from the financial year 1978 under various Finance Acts enacted from year to year. It is therefore difficult to understand how the expression 'duty of excise' in the Notification dated 1st August 1974 could possibly be read as comprehending special duty of excise which did not exist at the date of this Notification and came to be levied almost four years later. When special duty of excise was not in existence at the date of this Notification, how could the Central Government, in issuing this Notification, have intended to grant exemption from payment of special excise duty? The presumption is that when a Notification granting exemption from payment of excise duty is issued by the Central Government under Rule 8(1), the Central Government would have applied its mind to the question whether exemption should be granted and if so to what extent. And obviously that can only be with reference to the duty of excise which is then leviable. The Central Government could not be presumed to have projected its mind into the future and granted exemption in respect of excise duty which may be levied in the future,

A without considering the nature and extent of such duty and the object and purpose for which such levy may be made and without taking into account the situation which may be prevailing then. It is only when a new duty of excise is levied, whether special duty of excise or auxiliary duty of excise or any other kind of duty of excise, that a question could arise whether any particular article should be exempted from payment B of such duty of excise and the Central Government would then have to apply its mind to this question and having regard to the nature and extent of such duty of excise and the object and purpose for which it is levied and the economic situation including supply and demand position then prevailing, decide whether exemption from payment of such excise duty should be granted and if so, to what extent. It would be C absurd to suggest that by issuing the Notification dated 1st August 1974 the Central Government intended to grant exemption not only in respect of excise duty then prevailing but also in respect of all future duties of excise which may be levied from time to time.

D We have already pointed out, and this is one of the principal arguments against the contention of the respondents, that by reason of the definition of "duty" in clause (v) of Rule 2 which must be read in Rule 8 (1), the expression 'duty of excise' in the notifications dated 1st August, 1974 and 1st March, 1981 must be construed as duty of excise payable under the Central Excise and Salt Act, 1944. The respondents E sought to combat this conclusion by relying on sub-section (4) of section 32 of the Finance Act, 1979—there being an identical provision in each Finance Act levying special duty of excise—which provided that the provisions of the Central Excise and Salt Act, 1944 and the rules made thereunder including those relating to refunds and exemptions from duties shall, as far as may be, apply in relation to the levy and F collection of special duty of excise as they apply in relation to the levy and collection of the duty of excise under the Central Excise and Salt Act, 1944. It was urged on behalf of the respondents that by reason of this provision, Rule 8(1) relating to exemption from duty of excise became applicable in relation to the levy and collection of special duty of excise and exemption from payment of special duty of excise could G therefore be granted by the Central Government under Rule 8(1) in the same manner in which it could be granted in relation to the duty of excise payable under the Central Excise and Salt Act, 1944. The argument of the respondents based on this premise was that the reference to Rule 8(1) as the source of the power under which the notifications dated 1st August, 1974 and 1st March, 1981 were issued could not H therefore be relied upon as indicating that the duty of excise from

which exemption was granted under these two notifications was limited only to the duty of excise payable under the Central Excise and Salt Act, 1944 and the expression 'duty of excise' in these two notifications could legitimately be construed as comprehending special duty of excise. This argument is, in our opinion, not well-founded and cannot be sustained. It is obvious that when a notification granting exemption from duty of excise is issued by the Central Government in exercise of the power under Rule 8(1) simpliciter, without anything more, it must, by reason of the definition of 'duty' contained in Rule 2 clause (v) which according to the well-recognised canons of contruction would be projected in Rule 8(1), be read as granting exemption only in respect of duty of excise payable under the Central Excise and Salt Act, 1944. Undoubtedly, by reason of sub-section (4) of section 32 of the Finance Act, 1979 and similar provision in the other Finance Acts, Rule 8(1) would become applicable empowering the Central Government to grant exemption from payment of special duty of excise, but when the Central Government exercises this power, it would be doing so under Rule 8(1) read with sub-section (4) of section 32 or other similar provision. The reference to the source of power in such a case would not be just to Rule 8(1), since it does not of its own force and on its own language apply to granting of exemption in respect of special duty of excise, but the reference would have to be to Rule 8(1) read with sub-section (4) of section 32 or other similar provision. It is significant to note that during all these years, whenever exemption is sought to be granted by the Central Government from payment of special duty of excise or additional duty of excise, the recital of the source of power in the notification granting exemption has invariably been to Rule 8(1) read with the relevant provision of the statute levying special duty of excise or additional duty of excise, by which the provisions of the Central Excise and Salt Act, 1944 and the rules made thereunder including those relating to exemption from duty are made applicable. Take for example, the notification bearing No. 63/78 dated 1st August, 1978 where exemption is granted in respect of certain excisable goods "from the whole of the special duty of excise leviable thereon under sub-clause (1) of clause 37 of the Finance Bill, 1978". The source of the power recited in this notification is "sub-rule (1) of Rule 8 of the Central Excise Rules, 1944 read with sub-clause (5) of clause 37 of the Finance Bill, 1978". So also in the notification bearing No. 29/79 dated 1st March, 1979 exempting unmanufactured tobacco "from the whole of the duty of excise leviable thereon both under the Central Excise and Salt Act, 1944 and Additional Duties of Excise (Goods of Special Importance) Act, 1957", the reference to the source

of power mentioned in the opening part of the notification is "sub-rule (1) of Rule 8 of the Central Excise Rules, 1944 read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957". The respondents have in fact produced several notifications granting exemption in respect of special duty of excise or additional duty of excise and in each of these notifications, we find that the source of power is described as sub-rule (1) of Rule 8 of the Central Excise Rules, 1944 *read with* the relevant provision of the statute levying special duty of excise or additional duty of excise by which the provisions of the Central Excise and Salt Act, 1944 and the Rules made thereunder including those relating to exemption from duty are made applicable. Moreover the exemption granted under all these Notifications specifically refers to special duty of excise or additional duty of excise, as the case may be. It is, therefore, clear that where a notification granting exemption is issued only under sub-rule (1) of Rule 8 of the Central Excise Rules 1944 without reference to any other statute making the provisions of the Central Excise and Salt Act, 1944 and the Rules made thereunder applicable to the levy and collection of special, auxiliary or any other kind of excise duty levied under such statute, the exemption must be read as limited to the duty of excise payable under the Central Excise and Salt Act, 1944 and cannot cover such special, auxiliary or other kind of duty of excise. The Notifications in the present case were issued under sub-rule (1) of Rule 8 of the Central Excise Rules 1944 simpliciter without reference to any other statute and hence the exemption granted under these two Notifications must be construed as limited only to the duty of excise payable under the Central Excise and Salt Act, 1944.

We may incidentally mention that in the appeals a question of interpretation was also raised in regard to the Notification bearing No. 249/67 dated 8th November 1967 exempting tyres for tractors from "so much of the duty leviable thereon under item 16 of the First Schedule to the Central Excise and Salt Act, 1944 as is in excess of 15%". The argument of the respondents in the appeals was that the exemption granted under this Notification was not limited to the duty of excise payable under the Central Excise and Salt Act, 1944 but it also extended to special duty of excise, additional duty of excise and auxiliary duty of excise leviable under other enactments. This argument plainly runs counter to the very language of this Notification. It is obvious that the exemption granted under this Notification is "in respect of so much of the duty leviable thereon under item 16 of the First Schedule to the Central Excise and Salt Act, 1944 as is in excess of 15%" and these

words describing the nature and extent of the exemption on their plain natural construction, clearly indicate that the exemption is in respect of duty of excise leviable under the Central Excise and Salt Act, 1944 and does not cover any other kind of duty of excise. No more discussion is necessary in regard to this question beyond merely referring to the language of this Notification.

On the above view taken by us, we must hold that the Central Excise Laws (Amendment and Validation) Act, 1982 is merely declaratory of the existing law and hence its constitutional validity cannot be assailed.

We accordingly, allow the appeals and dismiss the writ petition. We set aside the judgment of the High Court and hold that under the Notifications dated 8th November, 1967, 1st August, 1974 and 1st March, 1981 the respondents in the appeals and the petitioners in the writ petition are entitled to exemption only in respect of the basic duty of excise leviable under the Central Excise and Salt Act, 1944 and are not entitled to claim any exemption in respect of special duty of excise or additional duty of excise or auxiliary duty of excise. The respondents in the appeals and the petitioners in the writ petition will pay the costs of the Union of India.

S.R. Appeals allowed and Petition dismissed.