

10/10/18

पत्र सं०-विधि-1-(1)-स्टेनलेस स्टील वायर की करदेयता-285(09-10)-571/ / वाणिज्य कर,  
कार्यालय कमिशनर वाणिज्य कर उत्तर प्रदेश  
(विधि अनुभाग)

दिनांक :: लखनऊ :: जून ०९, 2010

समस्त जोनल एडीशनल कमिशनर, वाणिज्य कर,  
उत्तर प्रदेश।

सर्वश्री बजाज स्टील इण्डो लि० फैजलगंज कानपुर के प्रार्थना पत्र पर उत्तर प्रदेश व्यापार कर अधिनियम 1948 की धारा 35 के अन्तर्गत पारित आदेश दिनांक 25-2-2008 में यह निर्णय दिया गया था कि 'स्टेनलेस स्टील बिलेट, फ्लैट, वायर राड एवं राउन्ड' केन्द्रीय बिक्रीकर अधिनियम की धारा 14 में यथा परिभाषित 'आयरन एण्ड स्टील' की श्रेणी में आते हैं, एवं तदनुसार 4 प्रतिशत की दर से करयोग्य हैं।

2- सर्वश्री बंसल वायर इण्डस्ट्रीज लिमिटेड गाजियाबाद एवं अन्य के द्वारा मा० उच्च न्यायालय इलाहाबाद में सिविल मिसलेनियस रिट पिटीशन संख्या-770 (टैक्स)/2006 दायर की गयी थी जिसमें व्यापारी द्वारा मा० उच्च न्यायालय से यह अनुरोध किया गया था कि सर्वश्री बजाज स्टील इण्डो लि० फैजलगंज कानपुर की धारा 35 के उक्त निर्णय दिनांक 25-2-2008 को दृष्टिगत रखते हुए 'स्टेनलेस स्टील वायर' को भी केन्द्रीय बिक्रीकर अधिनियम की धारा 14 में यथापरिभाषित आयरन एण्ड स्टील की श्रेणी में घोषित वस्तु मानते हुए 4 प्रतिशत की करदेयता रखी जाये।

3- उक्त रिट पिटीशन को निस्तारित करते हुये मा० उच्च न्यायालय इलाहाबाद द्वारा दिनांक 21-5-2010 को निम्नवत् निर्णय दिया गया है :-

"Stainless steel wire is not covered under the entry of "alloy and special steel" on sub-item (ix) and, therefore, does not fall under "iron and steel" as defined under Section 14(iv) of the Central Act. It cannot be treated as a declared commodity under Section 14 of the Central Act and, therefore, the provision of Section 15 of the Central Act does not apply."

4- मा० उच्च न्यायालय द्वारा अपने उक्त निर्णय दिनांक 21-5-2010 में उक्त बिन्दु पर विस्तृत विवेचन करते हुए यह भी कहा गया है कि " The words " alloy and special steel" are qualified by the words "of any of the above categories". The language is plain and unambiguous. Therefore, we are of the view that only those items which are mentioned in sub-items (i) to (viii) are covered under "alloy and special steel ". It appears that by using the words " of any of the above categories" the intent of the legislature is to cover only those alloys and special steel which are in the nature of raw material and in primary form and not which are derivatives of the stainless steel manufactured out of the primary form of the stainless steel. "

5- अतः कृपया उक्त सिविल मिसलेनियस रिट पेटीशन संख्या- 770 (टैक्स)/2006 सर्वश्री बंसल वॉयर इण्डस्ट्रीज लिमिटेड, गाजियाबाद व अन्य बनाम उत्तर प्रदेश राज्य सरकार एवं अन्य में मा0 उच्च न्यायालय इलाहाबाद द्वारा दिये गये निर्णय दिनांक 21-5-2010 का भली भाँति अध्ययन कर लें और उक्त निर्णय में विचाराधीन वस्तुओं से सम्बन्धित व्यापारियों की पत्रावलियों का परीक्षण कर लें। यदि किसी मामले में यह पाया जाता है कि मा0 उच्च न्यायालय के निर्णय के निर्णयानुपात के अनुरूप व्यापारी द्वारा करदायित्व स्वीकार नहीं किया है अथवा व्यापारी पर कर आरोपित नहीं किया गया है, तो ऐसे मामले में उ0प्र0 व्यापार कर अधिनियम अथवा उ0प्र0 मूल्य सम्बर्धित कर अधिनियम के सुसंगत प्राविधानों के अन्तर्गत नियमानुसार विधिक कार्यवाही कराना सुनिश्चित करें तथा कृत कार्यवाही से एक माह के अन्दर मुख्यालय को अवगत कराना सुनिश्चित करें। सुलभ संदर्भ हेतु मा0 उच्च न्यायालय के उक्त निर्णय दिनांक 21-5-2010 की इन्टरनेट प्रति संलग्न की जा रही है।

उक्त की पर्याप्त प्रतियां अधीनस्थ अधिकारियों को भी उपलब्ध कराने का कष्ट करें।  
संलग्नक : उपरोक्तानुसार।

(चन्द्रभानु)

कमिश्नर वाणिज्य कर, उत्तर प्रदेश।

प्र0प0सं0 एवं दिनांक उक्त।

प्रतिलिपि-निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित -

- (1) प्रमुख सचिव, कर एवं निबन्धन विभाग, उत्तर प्रदेश शासन सचिवालय, लखनऊ।
- (2) निदेशक, राजस्व व विशिष्ट अभिसूचना उत्तर प्रदेश शासन, सचिवालय, लखनऊ।
- (3) सँयुक्त सचिव, कर एवं निबन्धन विभाग उत्तर प्रदेश शासन, सचिवालय, लखनऊ (दो प्रतियों में)
- (4) अध्यक्ष/निबन्धक उत्तर प्रदेश वाणिज्य कर, लखनऊ एवं समस्त सदस्य वाणिज्य कर अधिकरण, वाणिज्य कर, उ0प्र0
- (5) समस्त एडीशनल कमिश्नर ग्रेड-1 वाणिज्य कर, उ0प्र0 मुख्यालय लखनऊ।
- (6) एडीशनल कमिश्नर, ग्रेड-2 (वि0अनु0शा0) / अपील, वाणिज्य कर उत्तर प्रदेश।
- (7) समस्त ज्वाइन्ट कमिश्नर (कार्य0/वि0अनु0शा0/अपील) वाणिज्य कर, उत्तर प्रदेश।

(वाई0एस0सिंह)

ज्वाइन्ट कमिश्नर (विधि) वाणिज्य कर,  
मुख्यालय, लखनऊ।

Raj Nath Pandey  
Joint Commissioner (HCW)  
Commercial Tax, Allahabad.

SL-14  
Jc (aw)  
21/05/10  
D.O. Letter No. 1759 Date : 28 May 2010  
Office of the Addl. Commissioner Grade-I  
Commercial Tax (High Court Work)  
Allahabad.

Respected Sir,

Your kind attention is drawn toward the decision in CMWP-No. 770 (Tax) of 2006 M/s Bansal Wire Industries Ltd., Ghaziabad and another vs State of UP & Others, decided on 21.05.2010, the Ratio of which is that

"...stainless steel wire is not covered under the entry "alloys and special steel" on sub-item (ix) and, therefore, does not fall under "iron and steel" as defined under Section 14 (iv) of the Central Act. It cannot be treated as a declared commodity under Section 14 of the Central Act and, therefore, the provision of section 15 of the Central Act does not apply ...." [in penultimate para]

My humble suggestion is that the above Ratio should be circulated to all the assessing authorities, so that where scopes of Trade Tax Section 21(2) or 21(6A) are not expired on limitation, re-assessments proceedings should be initiated the earliest and realization of proper amount of tax in Value Added Tax Act should also be ascertained.

Annexure : Internet Copy of  
the above decision.

Sri Chandrabhanu,  
I.A.S.  
Commissioner, Commercial Tax,  
U. P. Lucknow.

With regards

Yours sincerely,

28.05.2010  
(Raj Nath Pandey)

RESERVED

CIVIL MISC. WRIT PETITION NO. 770 (Tax) OF 2006  
M/s. Bansal Wire Industries Ltd., Ghaziabad & another v. State of U.P. &  
others.

Hon'ble Rajes Kumar, J.  
Hon'ble Pankaj Mithal, J.

(Delivered by Hon'ble Rajes Kumar, J.)

By means of the present petition the petitioners are seeking a writ, order or direction declaring Entry No. 8 of Notification No. S.T.I.F.-2-2375/X1-9(251)/97-U.P. Act-15-48-Order-98 dated 23.11.1998 and Entry No. 5 of Notification No. 306 dated 29.1.2001 insofar as it relates to the imposition of tax on wires made wholly or principally of stainless steel in excess of 4%, as illegal, invalid and void and further seeking a direction in the nature of writ of certiorari quashing the notice dated 27.3.2006, passed by the Deputy Commissioner (Assessment), Trade Tax, Ghaziabad, under Section 21 of the U.P. Trade Tax Act (called the 'Act' for short) and order dated 27.3.2006, passed by the Additional Commissioner, Grade I, Trade Tax, Ghaziabad Zone, Ghaziabad, under Section 21(2) of the Act for the assessment year 1999-2000.

Petitioner no. 1 (hereinafter referred to as the 'petitioner') is a Public Limited Company incorporated under the Indian Companies Act, 1956 and is engaged in the business of manufacture and sales of stainless steel wires.

The contention of the petitioner is that stainless steel wire is one of the species of iron and steel under Section 14(iv) of the Central Sales Tax Act and, therefore, cannot be subjected to tax in excess of 4% in view of Section 15 of the Central Sales Tax Act (called the 'Central Act' for brevity).

Section 14(iv) of the Central Act, as it stands after its amendment from 1.4.1973, is reproduced below :-

"14. Certain goods to be of special importance in inter-State trade or commerce. - It is hereby declared that the following goods are of special importance in inter-State trade or commerce, -

(iv) iron and steel, that is to say, -



- (i) pig iron and caste iron including ingot moulds, bottom, plates, iron scrap, caste iron scrap, runner scrap and iron skull scrap;
- (ii) steel semis (ingots, slabs, blooms and billets of all qualities, shapes and sizes);
- (iii) skull bars, tin bars, sheet bars, hoe-bars and sleeper bars;
- (iv) steel bars (rounds, rods, squares, flats, octagons and hexagons, plain and ribbed or twisted, in coil form as well as straight lengths);
- (v) Steel structurals (angels, joists, channels, tees, sheet piling sections, Z sections or any other rolled sections);
- (vi) sheets, hoops, stripe and skelp, both black and galvanized, hot and cold rolled, plain and corrugated, in all qualities, in straight lengths and in coil form, as rolled and in riveted condition;
- (vii) plates both plain and chequered in all qualities;
- (viii) discs, rings, forgings, and steel castings;
- (ix) tool, alloy and special steels of any of the above categories;
- (x) steel melting scrap in all forms including steel skull, turnings and borings;
- (xi) steel tubes, both welded and seamless, of all diameters and lengths, including tube fittings;
- (xii) tin-plates, both hot dipped and electrolytic and tin free plates;
- (xiii) fish plates bars, beaming plate barn, crossing sleeper bars, fish plates, bearing plates, crossing sleepers and pressed steel sleepers, rails-heavy and light crane rails;
- (xiv) wheels, tyres, axles and wheel sets;
- (xv) wire rods and wires-rolled, drawn, galvanized, aluminized, tinned or coated such as by copper;
- (xvi) defectives, rejects, cuttings or end pieces of any of the above categories."

The relevant notifications issued under Section 3-A of the U.P. Sales Tax Act, 1948 relating to stainless steel are referred herein below :

"Notification No. ST-II-2152/XI-7(51)/91-U.P. Act 15/48-Order-91, dated 26.10.1991 :

<u>S.No.</u>	<u>Description of goods</u>	<u>Point of tax</u>	<u>Rate of tax</u>
(a)	Sheets and circles made wholly or principally of stainless steel.	M or I	12%

- |     |   |        |     |
|-----|---|--------|-----|
| (b) | All remaining articles<br>(excluding wares and surgical<br>instruments) made wholly or<br>principally of stainless steel. | M or I | 12% |
| (c) | Wares and surgical instruments<br>made wholly or principally of<br>stainless steel."                                      | M or I | 8%  |

"Notification No. T.I.F.-2-2375/XI-9(251)/97-U.P.Act-15-48-Order-98,  
dated 23.11.1998 :

<u>S.No.</u>	<u>Description of goods</u>	<u>Point of tax</u>	<u>Rate of tax percentage.</u>
8.i)	Sheets and circles made wholly or principally of stainless steel.	M or I	15%
(ii)	All remain articles (excluding wares and surgical instruments made wholly or principally of stainless steel.	M or I	15%
(viii)	(a) Surgical instruments made wholly or principally of stainless steel excluding utensils made of stainless steel.	M or I	10%
	(b) Utensils made of stainless steels."	M or I	5%

Section 15 of the Central Sales Tax Act reads as follows :

"15. Restrictions and conditions in regard to tax on sale or purchase of  
declared goods within a State - Every sales tax law of a State shall, insofar  
as it imposes or authorized the imposition of a tax on the sale or purchase of  
declared goods, be subject to the following restrictions and conditions,  
namely:-

- (a) the tax payable under that law in respect of any sale or purchase of  
such goods inside the State shall not exceed four per cent, of the sale or  
purchase price thereof, and such tax shall not be levied at more than one  
stage;"

Heard Sri Bharat Ji Agrawal, Senior Advocate, appearing for the  
petitioners and Sri S.P. Kesharwani, learned Additional Chief Standing  
Counsel.

Learned counsel for the petitioner submitted that in the case of *M/s.  
Raj Steel Rolling Mill, Moradabad* reported in 1980 STJ 221 the  
Commissioner of Sales Tax, vide its order dated 19.3.1980 passed under

Section 35 of the U.P. Sales Act, has held that the stainless steel is a kind of special steel and, therefore, stainless steel rods, sheets and strips fall under clause (ix) of Section 14 and, therefore, taxable at the rate of 4%. He submitted that the Division Bench of the Madras High Court in the case of *Hindustan Wires Ltd. v. State of Tamil Nadu* reported in 1992 (86) STC 1 has held that stainless steel wires and stainless steel tubes are covered under iron and steel as defined under Section 14(iv) of the Central Act and are declared commodities. He submitted that the Government of India in its Reference No. F No. 24/20/76 ST Department of Revenue and Banking dated 17.11.1976 has clarified that stainless steel is a type of alloy steel and is, therefore, covered within the definition of the term "iron and steel" for the purposes of sub-item (ix) of Section 14(iv) of the C.S.T. Act, 1956. He further submitted that once the Central Government has taken a stand, it is not open to the authorities of the State Government to take a different view. He has also referred the object and reason for the amendment which is referred at page 1338 of Chaturvedi's Central Sales Tax Act, Vol. I.

Sri Kesharwani submitted that iron and steel is covered under clause (iv) of Section 14 of the Central Sales Tax Act. It includes various items mentioned therein. The items mentioned are exhaustive, as held by the apex Court in the case of *Pyare Lal Mehrotra*. He submitted that in the items mentioned under "Iron and steel", stainless steel is not mentioned. He further submitted that in clause (ix) the items mentioned are "tool, alloy and special steel" of above categories. Therefore, the items mentioned in sub-clauses (i) to (viii) are only covered under "alloys and special steel" and not the items mentioned in sub-clauses (x) to (xvi). Since wire is mentioned in clause (xv), therefore, it is not covered under special steel mentioned in sub-clause (ix). He further submitted that this Hon'ble Court in the case of *Commissioner of Sales Tax v. S/s Industrial Mill Stores* reported in STI 1980 All. H. C. 273 has held that stainless steel is not covered under iron and steel as defined under Section 14(iv) of the Central Sales Tax Act.

Having heard learned counsel for the parties, we have considered the rival submissions and the various documents filed by both the parties, The fundamental question for consideration by us is whether the

stainless steel wire falls under the category tool, "alloy and special steels of any of the above categories" enumerated in item (ix) of clause (iv) of Section 14 of the Central Sales Tax Act. If it falls under the aforesaid category, undisputedly the tax under the State Law cannot be levied more than 4% in view of Section 15 of the Central Sales Tax Act. The following question emerges for consideration :

"Whether stainless steel is an alloy and special steel and if it is so whether being qualified by the word of any of the above categories it includes stainless steel wire while wire is not enumerated in any of the sub-items no. (i) to (viii)."

Learned counsel for the petitioner placed reliance upon the decision of the Commissioner of Sales Tax in the case of *M/s. Raj Steel Rolling Mill, Moradabad (supra)* wherein stainless steel is held as a kind of special steel. Reliance is also placed on the decision of the Madras High Court in the case of *Hindustan Wires Ltd. v. State of Tamil Nadu (supra)* wherein stainless steel has been held as alloy and special steel, enumerated under sub-item (ix) of Section 14 of the Central Act. Reliance is also placed on the Government of India Reference No. F No. 24/20/76 ST Department of Revenue and Banking dated 17.11.1976 wherein it has been clarified that stainless steel is a type of alloy steel sheet and is, therefore, covered within the definition of the term "iron and steel" for the purposes of sub-item (ix) of Section 14(iv) of the Central Act.

The Commissioner of Sales Tax in the case of *M/s. Raj Steel Rolling Mill, Moradabad (supra)* has observed as follows :-

"Whereas stainless steel is a special kind of steel. It consists of 13% chromium and approximately 0.3% carbon, as described in the publication "Engineering Metallurgy Part 1 by R.A. Higgins". This book was produced by the applicant for my perusal. On page 259 we find a description of composition of stainless steel. It consists of 0.3% carbon, 0.50% n.n., and 13% chromium. On page 256 para 3.35, it is mentioned that "Chromium is also added in larger amounts up to 21% and has a pronounced effect in improving corrosion-resistance, due to the protective layer of oxide formed. This oxide layer is extremely thin, and these steels take a very high polish. They contain little or no carbon and are therefore completely ferritic and non-hardening (except, by cold-work). They are used widely in the chemical

engineering industry; for domestic purposes, such as stainless steel sinks and in food containers, refrigerator parts, beer barrels, cutlery and table-ware. The best known alloy-in this group is "stainless iron", containing 13% chromium and usually less than 0.05% carbon.

4. If the carbon content exceeds 0.1 per cent the alloy is a true stainless steel and is amenable to hardening by heat-treatment. The most common alloy in this group contains 13 per cent chromium and approximately 0.3 per cent carbon. Due to displacement of eutectoid point to the left, this steels is of approximately eutectoid composition. It is widely used in stainless steel knives.

5. The stainless steels in this group are of the martensitic type, the structure being obtained by rapid cooling. If these steels are allowed to cool slowly carbides will be precipitated, with consequent loss in corrosion-resistance. This is due partly to chromium coming out of solution in the form of carbides, thus leaving the matrix low in chromium, and partly to subsequent electrolytic action between the carbide particles and the matrix in the presence of an electrolyte."

6. It is, therefore, obvious that the stainless steel is a kind of special steel. Stainless steel rods, sheets and strips fall under clause (ix) of Section 14. Since stainless steel comes under the category of iron and steel as defined in Section 14 of the Central Sales Tax Act, it is taxable at the point of sale to the consumer at the rate of 4 per cent under Notification No. ST-II-8448/X. Dated 1.10.75. The question is, therefore, answered accordingly.

While coming to the conclusion that stainless steel is an alloy and special steel, the Division Bench of the Madras High Court in the case of *Hindustan Wires Ltd. v. State of Tamil Nadu (supra)* has observed as follows :-

"14. Our first endeavour will be to find out the meaning to be attached to the words "iron and steel, that it to say". We will refer to the meaning given by the Indian Standard (IS : 1956-1962) Glossary of Terms relating to Iron and Steel, which is relevant for our purpose :

"2.10. Alloy - A metallic substance consisting of two or more elements, one of which at least is a metal. It is generally obtained by melting together the constituent elements.

2.12. Alloy steel - A steel containing one or more alloying elements as a result of which it develops specific characteristics.

2.347. Stainless steel – An alloy steel containing about 12 per cent or over of chromium with or without nickel together with other elements and is characterized by its high resistance to corrosive media.

3.143. Steel – An iron-carbon alloy, with carbon chemically combined as iron carbide ( $\text{Fe}_3\text{C}$ ), and contains varying amounts of other elements, some being added intentionally to develop specially desired properties. The alloy is capable of withstanding a high degree of hot working for making products of a wide variety of shapes and sizes, and even cold working in the form of sheets or small diameter rounds of suitable composition.

4.63. Rod (wire-rod) – A semi-finished hot rolled product of relatively small cross section and very great length produced in coil form for cold-drawing. In rounds the usual range of sizes in which rods are produced is from 5 to 14 mm.

6.114. Wire – The product of a wire-rod whose sectional area has been reduced at normal temperatures either by drawing through a specifically prepared orifice or by passing under pressure between suitably driven rolls.

9.125. Skelp –

(a) Hot rolled strip with square or slightly bevelled edges, used for making welded tubes.

(b) A strip or plate bent hot into a cylindrical shape with overlapping edges, before being welded to form a tube.

9.144. Tube (pipe) – A long, hollow, open-ended object of circular or other cross section. The terms 'tube and pipe' are often used synonymously."

Let us also refer to the Glossary of Terms relating to Iron and Steel (IS : 1956-1962 – Amendment No. 1 May, 1965):

"Red (wire-rod) – Wire-rod is of any shape, generally round and between 5 to 14 mm. in diameter, and is intended for conversion into wire. A rod that has been sized would be classified as wire provided it is between 5 to 12.5 mm in diameter. It will be classified as a cold rolled bar if it is above 12.5 mm in diameter. The term wire bar is the usual term which has later on come to be designated as wire-rod and hence wire bar and wire-rod are synonyms."

We will now refer to Wire Encyclopaedia (from Wire Industry Year Book 1968) :

"Stainless steel : High chromium steel, often including nickel, which is resistant to corrosive and oxidising influences. The best known form of stainless steel is 18.8, an austenitic steel containing about 18 per cent chromium, 8 per cent nickel, the carbon content being kept low. See also entries for stainless steel under 'annealing', 'welding', and 'lubricants'. A suitable solution for cleaning 18.8 stainless and similar qualities is 35 per cent hydrochloric acid, 5 per cent nitric acid, 5 per cent restrainer and 55 per cent water. See also 'chromium oxide scale'.

Wire-rod : Produced from a steel billet by passing, when hot, through a series of rolls by which it is reduced in cross-sectional area and

consequently elongated to form a coil; it is the semi-finished product from which wire is made, and is generally about 5 S.W.G. (0.212 inch) to 9.16 inch diameter. The higher alloy and stainless qualities are rolled in semi-continuous mills, but qualities up to at least 0.50 per cent carbon are regularly rolled in continuous mills, the latest mills having four strands and weekly output of over 7,000 tons, at finishing speeds up to 8,500 ft. min. on 0.212 inch rod, producing coils of 1,000 lb."

We will then refer to Indian Standard - Classification of Steel. The relevant portion for our purpose is as follows :

"2. Definition of steel.

2.1 For the purpose of classification, steel is an iron base alloy generally suitable for working to the required shape in the solid state having a carbon content generally less than 1.5 per cent and containing varying amounts of other elements. A limited number of high alloyed steels may have more than 2 per cent carbon but 2 per cent is the usual dividing line between steel and cast iron."

"Classification on the basis of chemical composition.

3.1 Steel shall be classified as follows :

- (a) Unalloyed steels, and
- (b) Alloy steels.

3.3 Alloy steels.

Alloy steels are those steels where specified content of any element is equal to or greater than that indicated in 3.1.

Depending on the alloy content (exclusive of S, P, C and N), alloy steels shall be subdivided as follows :

Subdivision	Total alloying element percent
Low alloy steels	Up to and including 5
Medium alloy steels	More than 5 but up to and including 10
High alloy steels	More than 10 .....

Now we will refer to Harmonized Commodity - Description and Coding System (Volume 3, 1986). The relevant portions for our purpose are as follows :

"(c) Stainless steel

Alloy steels containing, by weight, 1.2 per cent or less of carbon and 10.5 per cent or more of chromium, with or without other elements.

(o) Wire

Cold-formed products in coils, of any uniform solid cross-section along their whole length, which do not conform to the definition of flat-rolled products.

(d) High speed steel

Alloy steels containing, with or without other elements, at least two of the three elements molybdenum, tungsten and vanadium with a combined content by weight of 7 per cent or more of carbon and 3 to 6 per cent of chromium.

Liquid steel obtained by the abovementioned processes, with or without further refining, is generally run into a receiving ladle. At this stage alloying elements or de-oxidising agents, in solid or liquid form, may be added. This may be done in a vacuum to ensure freedom from gaseous

impurities.

Steels obtained by all these processes are divided, according to their content of alloying elements, into 'non-alloy steels' and 'alloy steels' (stainless or other). They are further divided in accordance with their special properties into free-cutting steel, silicon-electrical steel, high speed steel or silico-manganese steel, for example.

Alloy steel. All steels contain carbon and small amounts of silicon, sulphur, manganese and phosphorous. Steels which contain intentional additions of elements other than those or in which silicon and manganese are present in large amounts are termed alloy steels. The alloying elements are deliberately added to produce certain properties in the product. In Government statistics, alloy steel figures relate to steel, other than high-speed steel, containing any of the elements named below and in the quantities indicated : Chromium or nickel 0.4 per cent or more, Mo, W or V.C. 1 per cent or more, Mn 10 per cent or more.

Stainless steel. A corrosion-resistant type of alloy steel which contains a minimum of 12 per cent chromium. The latter is the element which confers upon the steel its property of resisting attack by the atmosphere or by a number of chemical reagents. The effect is attributed to the ability of chromium to form a thin, but very tenacious, film of oxide at the surface of the alloy which resists attack by most oxidising agents. The resistance to corrosive attack is enhanced if nickel be added, and is further improved by small additions of molybdenum and copper. There are three main classes of stainless steels."

In the compilation of the cases, learned counsel for the petitioner has provided a photostat copy of page no. 621 of the book "Case Law on The Central Sales Tax Act, 1956 written by S. Krishna Murty wherein following is printed :

**"88:18 STAINLESS STEEL SHEETS**

The Government of India in its reference F.No.24/20/76 ST Department of Revenue & Banking dated 17.11.1976 clarified that stainless steel is a type of alloy steel sheet and is, therefore, covered within the definition of the term "iron and steel" for the purposes of sub-item (ix) of Section 14(iv) of the C.S.T. Act, 1956."

The apex Court in the case of *Bengal Iron Corporation & another v. Commercial Tax Officer & others* reported in AIR 1993 SC 2414 has held that "So far as the clarifications/circulars issued by the Central Government and or State Government are concerned, they represent merely their understanding of the statutory provisions. They are not binding upon the Courts. .... The understanding of the Government, whether in favour or against the assessee, is nothing more than its understanding and opinion." A Constitution Bench of the apex Court in the case of *Commissioner of Central Excise, Bolpur v. M/s. Ratan Melting & Wire Industries* reported



in *JT 2008 (11) S.C. 412* has held that "circulars issued by board are binding on authorities. However such circulars/clarifications represent understanding of the statutory provisions and are not binding on the Court. It is for a court to determine what a statute says and not the executive."

Clause (iv) which defines "iron and steel" in Section 14 of the Central Act came up for consideration before the four Judges Bench of the apex Court in the case of *State of Tamil Nadu v. M/s. Pyare Lal Mathotra & others* reported in 1976 UPTC 282. The apex Court held that list of the items mentioned under the heading "iron and steel" is exhaustive. Each sub-category or a sub-item retains its identity as a commercially separate item for purposes of sales tax so long as it retains the sub-division. For the purposes of the present case it would be relevant to refer the following paragraph of the aforesaid decision :

"5. It will be seen that "iron and steel" is now divided into 16 categories which clearly embrace widely different commercial commodities from mere scrap iron and leftovers of processes of manufacturing to "wires" and "wheels, tyres, axles, and wheel sets". Some of the enumerated items like "melting scrap" or "tool alloys" and "special steels" could serve as raw material out of which other goods are made and others are definitely varieties of manufactured goods. If the subsequent amendment only clarifies the original intentions of Parliament, it would appear that heading (iv) in Section 14, as originally worded, was also meant to enumerate separately taxable goods and not just to illustrate what is just one taxable substance : "iron and steel". The reason given, in the Statement of Objects and Reasons of the 1972 Act, for an elucidation of the "definition" of iron and steel, was that the "definition" had led to varying interpretations by assessing authorities and the courts so that a comprehensive list of specified declared iron and steel goods would remove ambiguity. The Select Committee, which recommended the amendment, called each specified category "a sub-item" falling under "iron and steel". Apparently, the intention was to consider each "sub-item" as a separate taxable commodity for purpose of sales tax. Perhaps some items could overlap, but no difficulty arises in cases before us due to this feature. As we have pointed out, the statement of reasons for amendment spoke of Section 14(iv) as a "definition" of "iron and steel". A definition is expected to be exhaustive. Its very terms may, however, show that it is not meant to be exhaustive. For example, a purported definition may say that the term sought to be defined "includes" what it specifies, but, in that case, the definition itself is not complete." (Emphasis provided)

From the perusal of the 16 categories under the "iron and steel" it appears that sub-items (i) to (viii) are in the nature of raw material or primary Iron and steel and items no. (x) to (xvi) are derivatives of such primary materials and raw materials.

We have considered the reasoning given by the Commissioner of Sales Tax in the case of *M/s. Raj Steel Rolling Mill, Moradabad (supra)* and

the definition of Iron and steel, alloys, special steels and other materials considered by the Madras High Court in the case of *Hindustan Wires Ltd. v. State of Tamil Nadu (supra)* in arriving to the conclusion that the stainless steel is an alloy and special steel. In the absence of any contrary material on record we agree with the view of the Madras High Court. Accordingly, we hold that the stainless steel is covered under the entry "alloys and special steel".

The next vital question for consideration is whether the "alloy and steel" mentioned in sub-item (ix) will cover the stainless steel wire. The words "alloy and special steel" are qualified by the words "of any of the above categories". The language is plain and unambiguous. Therefore, we are of the view that only those items which are mentioned in sub-items (i) to (viii) are covered under "alloy and special steel". It appears that by using the words "of any of the above categories" the intent of the legislature is to cover only those alloys and special steel which are in the nature of raw material and in primary form and not which are derivatives of the stainless steel manufactured out of the primary form of the stainless steel.

It is a settled principle of law that the words used in the section, rule or notification should not be rendered redundant and should be given effect. Some meaning must be given to the words used in the section. Thus wires being mentioned in sub-clause (xy) is not covered under "alloy and special steel" of sub-clause (ix).

In the case of *Nathi Devi v. Radha Devi Gupta* reported in (2005) 2 SCC 271 it has been held by the apex Court that while interpreting a statute effort should be made to give effect to each and every word used by the legislature. The courts always presume that the legislature inserted every part of a statute for a purpose and the legislative intention is that every part of the statute should have effect.

In the case of *Ganga Prasad Verma (Dr.) v. State of Bihar* reported in 1995 Supp (1) SCC 192 it has been held by the apex Court that where the language of the Act is clear and explicit, the Court must give effect to it, whatever may be the consequences, for in that case the words of the statute speak the intention of the legislature.

In the case of *Union of India v. Hansoli Devi* reported in (2002) 7 SCC 273 it has been held by the apex Court that it is a cardinal principle of construction of a statute that when the language of the statute is plain and unambiguous, then the court must give effect to the words used in the statute.

Similar view has been taken by the apex Court in the case of *Promoters & Builders Assn. of Pune v. Pune Municipal Corpn. And others* reported in (2007) 6 SCC 143.

In the case of *Bhavnagar University v. Palitana Sugar Mill (P) Ltd.* Reported in (2003) 2 SCC 111 the apex Court held that the scope of the legislation on the intention of the legislature cannot be enlarged when the language of the provision is plain and unambiguous. In other words statutory enactments must ordinarily be construed according to its plain meaning and no words shall be added, altered or modified unless it is plainly necessary to do so to prevent a provision from being unintelligible absurd, unreasonable, unworkable or totally irreconcilable with the rest of the statute.

In this view of the matter we do not subscribe with the view of the Division Bench of the Madras High Court in the case of *Hindustan Wires Ltd. v. State of Tamil Nadu (supra)* and the view of the Commissioner of Sales Tax in the case of *M/s. Raj Steel Rolling Mill, Moradabad (supra)* wherein it has been held that stainless steel wire is covered under "alloys and special steel" and, therefore, is a declared commodity under Section 14(iv) of the Central Act.

We are of the view that stainless steel wire is not covered under the entry of "alloys and special steel" on sub-item (ix) and, therefore, does not fall under "iron and steel" as defined under Section 14(iv) of the Central Act. It cannot be treated as a declared commodity under Section 14 of the Central Act and, therefore, the provision of Section 15 of the Central Act does not apply. No other point has been argued and pressed.

In the result, the writ petition fails and is dismissed.

Dated: 21.5.2010.

PG.