Hyderabad Asbestos Cement Products and Anr. Vs. Union of India, (2000) 1 SCC 426,

Court had occasion to consider Rule 56-A of Central Excise Act, 1944. The Court dealt with interpretation of conjunctive and disjunctive “and”, “or”. Proviso to Rule 56-A also uses the conjunctive word “and”. The Provision of the Rule as quoted in paragraph 4 is as below:-

“56-A. *Special procedure for movement of duty-paid materials or component parts for use in the manufacture of finished excisable goods.*—(1) Notwithstanding anything contained in these rules, the Central Government may, by notification in the Official Gazette, specify the excisable goods in respect of which the procedure laid down in sub-rule (2) shall apply.

(2) The Collector may, on application made in this behalf and subject to the conditions mentioned in sub-rule (3) and such other conditions as may, from time to time, be prescribed by the Central Government, permit a manufacturer of any excisable goods specified under sub-rule (1) to receive material or component parts or finished products (like asbestos cement), on which the duty of excise or the additional duty under Section 2-A of the Indian Tariff Act, 1934 (32 of 1934), (hereinafter referred to as the countervailing duty), has been paid, in his factory for the manufacture of these goods or for the more convenient distribution of finished product and allow a credit of the duty already paid on such material or component parts or finished product, as the case may be: Provided that no credit of duty shall be allowed in respect of any material or component parts used in the manufacture of finished excisable goods—

(*i*) if such finished excisable goods produced by the manufacturer are exempt from the whole of the duty of excise leviable thereon or are chargeable to nil rate of duty, and (*ii*) unless—

(*a*) duty has been paid for such material or component parts under the same item or sub-item as the finished excisable goods; or

(*b*) remission or adjustment of duty paid for such material or component parts has been specifically sanctioned by the Central Government:

Provided further that if the duty paid on such material or component parts (of which credit has been allowed under this sub-rule) be varied subsequently due to any reason, resulting in payment of refund to, or recovery of more duty from, the manufacturer or importer, as the case may be, of such material or component parts, the credit allowed shall be varied accordingly by adjustment in the credit account maintained under sub-rule (3) or in the account current maintained under sub-rule (3) or Rule 9 or Rule 178(1) or, if such adjustment be not possible for any reason, by cash recovery from or, as the case may be, refund to the manufacturer availing of the procedure contained in this rule.”

Court held that when the provisos 1 & 2 are separated by conjunctive word “and”, they have to be read conjointly. The requirement of both the proviso has to be satisfied to avail

the benefit. Paragraph 8 is as follows:-

> **“8.** The language of the rule is plain and simple. It does not admit of any doubt in interpretation. Provisos (*i*) and (*ii*) are separated by the use of the conjunction “and”. They have to be read conjointly. The requirement of both the provisos has to be satisfied to avail the benefit. Clauses (*a*) and (*b*) of proviso (*ii*) are separated by the use of an “or” and there the availability of one of the two alternatives would suffice. Inasmuch as cement and asbestos fibre used by the appellants in the manufacture of their finished excisable goods are liable to duty under different tariff items, the benefit of pro forma credit extended by Rule 56-A cannot be availed of by the appellants and has been rightly denied by the authorities of the Department.”