

C.C.E. Vs. Vimal Detergent Cakes (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-24-1996

Reported in : (1997)(93)ELT179TriDel

Appellant : C.C.E.

Respondent : Vimal Detergent Cakes (P) Ltd.

Judgement :

1. Respondent is absent in spite of notice of hearing. We have heard Shri T.R. Malik, SDR for the appellant -Collector and perused the papers.
2. Respondent is engaged in the manufacture and sale of detergent cakes. The controversy relates to the includibility in the assessable value of the cost of secondary packing. The Assistant Collector held that the cost of secondary packing should be included but the Collector (Appeals) took a contrary view. Hence the present appeal by the Department.
3. The admitted facts are that detergent cakes manufactured by the respondent are initially packed in polythene bags and several such polythene bags are packed in HDPE bags when delivered at the factory gate to buyers or while being sent to outstation customers. Assessable value should be based on the wholesale price at the factory gate and regard must be had to the manner of packing necessary for delivery at the factory gate. It is difficult to accept that when large number of detergent cakes are being sold in bulk to wholesale buyers, only primary packing is used and secondary packing is not used. The records show that invariable the

detergent cakes are packed in gunny bags or HDPE bags when delivered at the factory gate to the buyer. That being so, the secondary packing must be considered to be "necessary" as explained by the Supreme Court in M.R.F.'s case, 1995 (77) E.L.T. 433.

Hence the value of secondary packing has to be included in the assessable value of the goods.

4. For reasons indicated above, the order passed by the Collector (Appeals) is set aside and the order passed by the Assistant Collector is restored.

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