Central India Cable Co. Vs. Collector of Central Excise

Central India Cable Co. Vs. Collector of Central Excise

SooperKanoon Citation : sooperkanoon.com/12019

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-28-1997

Reported in : (1998)(100)ELT291TriDel

Appellant : Central India Cable Co.

Respondent : Collector of Central Excise

Judgement :

1. The above appeal arises out of the order passed by the Collector of Central Excise, Raipur confirming the duty demand of Rs. 11,09,293.87 on PVC coating of G.I. wires falling under Heading 85.44 of the schedule to the Central Excise Tariff Act, 1985 cleared during the period 1989-90 and 1990-91 (upto March, 1991) and imposing penalty of Rs. 1 lakh on the appellants herein.

2. Appearing on behalf of the Appellants the ld. Counsel submits that the appellants had received G.I. wires and cables supplied to them by the Telecom Department and gate passes declared only job charges in respect of the wires and cables cleared to the Telecom Department. They did not include value of the raw materials supplied by the Telecom Department in the assessable value of the goods as required under Section 4 of the Central Excises and Salt Act, 1944. While accepting in principle that the value of the raw materials supplied by the Telecom Department is to be included along with the job charges in the assessable value of the wires and cables, the ld. Counsel submits that the cost of the raw materials was not furnished to the appellants, even though, right from the receipt of the show cause notice, the appellants had been requesting that the

basis for the cost of raw material may be supplied to them. In this connection he drew our attention to the letters dated 1-11-1993 at page 31 and letter dated 7-1-1994 at page 33 of the paper book. Request in these letters were for supply of statement of the department and a photostat copies of the gate passes.

The cost of raw materials had been worked out in the annexure to the show cause notices, although the appellants were furnished with the copy of this statement and the details of the gate passes till date they have not been supplied with the basis on which the cost of raw material has been worked out in the annexure to the show cause notices.

Although the appellants were furnished with the copy of this statement and the details of the gate passes, ill date they have not been supplied with the basis on which the cost of raw materials has been worked out. According to the appellants, the work done includes cost of recovery of old wires and therefore even if the raw material cost is to be added to the assessable value, it cannot be the amount as confirmed by the adjudicating authority. He therefore prays that while holding that the raw material cost is to be included along with job work charges in the assessable value of the wires and cables in question, the matter may be remanded for the purpose of arriving at the exact quantum of duty after furnishing details as to the basis of cost of raw material.

3. The ld. DR drew our attention to the impugned order in which it is clearly stated that the appellants did not file any reply to the show cause notice nor availed of the opportunity of personal hearing and therefore submits that since the appellants themselves admitted that the amount payable to them would be to the tune of Rs. 9 lakhs out of which Rs. 3 lakhs has been paid by them in pursuance of the order directing pre-deposit they may be directed to pay the balance of Rs. 6 lakhs which is admitted duty and the matter may be remanded for reconsideration in respect of the remaining part.

4. We have carefully considered the submissions made by both sides. We find that on receipt of the show cause notice the appellants sought information of basis of cost of raw materials and gate passes and while gate passes were supplied to them cost of raw material was not furnished to them. The show cause notice

shows the cost of raw material in the year 1989-90 as Rs. 54,36,951.20 and in the year 1990-91 as Rs. 30,61,296/-. There is however no indication in the show cause notice or in the order as to how this cost has been arrived. The appellants were entitled to know the details of the basis which the cost of raw material had been worked out by Department. Therefore while holding that the cost of raw material is to be included along with the job charges in the assessable value of the wires and cables cleared by the appellants to the Telecom Department, we remand the matter to the adjudicating authority for the purpose of supplying to the appellants the basis on which the cost of raw materials received during the relevant period has been arrived at. Adjudicating authority shall pass fresh orders after extending a reasonable opportunity to the appellants of being heard in person and pass fresh orders in accordance with law.