Collector of Central Excise Vs. Kerala Oil and Soaps Ltd.

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SooperKanoon Citation : sooperkanoon.com/12068

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-05-1997

Reported in : (1998)(97)ELT264TriDel

Appellant : Collector of Central Excise

Respondent : Kerala Oil and Soaps Ltd.

Judgement :

1. Respondent has sent a request for decision of the appeal on merits.

We have heard Shri Sanjeev Srivastava, JDR and perused the papers.

2. Respondent filed price list declaring the wholesale price and the assessable value and seeking deduction of cash discount allowed to dealers who pay price in cash or by demand draft. The Assistant Collector approved the price list subject to the condition that cash discount is actually availed by buyers and differential duty has to be paid in cases where buyers have not availed cash discount. In appeal, Collector (Appeals) set aside the order. The department being aggrieved has filed this appeal.

3. Department has no case that allowance of cash discount was not known to the trade or was not available to all who paid the price in cash or by demand draft. It may be that some buyers do not make such payment and do not avail the cash discount. There is no reason to hold that deduction from price should not be allowed in respect of the discount.

We have held so on a consideration of several decisions of High Courts and of the Tribunal in the case of Collector of Central Excise, Meerut v. Stallion Shox Ltd. - 1996 (85) E.L.T. 139. In these circumstances, the appeal has no merit and is dismissed.