Cce Vs. Associated Capsules (P) Ltd.

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SooperKanoon Citation : sooperkanoon.com/12475

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-26-1997

Reported in : (1998)(75)LC109Tri(Mum.)bai

Judge : U Bhat, S T K.

Appellant : Cce

Respondent : Associated Capsules (P) Ltd.

Judgement :
1. Respondent is absent in spite of notice of hearing. We have heard Shri M. Ali, JDR for the appellant.

2. Respondent, engaged in the manufacture of empty gelatin capsules, was availing benefit of Notification No. 120/75. Subsequently, four show cause notices were issued stating that charges collected for forwarding and delivery had not been included in the invoice value and duty was payable thereon. On the respondent opposing the notices, the Assistant Collector dropped the demand. The Department moved the Collector (Appeals) against this order. Collector (Appeals) held that deduction for forwarding and delivery charges could not be granted and actual freight charges had not been proved. He also accepted the contention raised on behalf of the respondent in the course of submissions that erection charges should be deducted from the value.

This order is being challenged by the Department. Apparently, the respondent has not preferred an appeal against the order, nor has the respondent filed any cross-objections in this appeal.

3. The only question for consideration is whether Collector (Appeals) was justified in holding that erection charges was a permissible deduction. This was not a matter raised in the Show Cause Notices and not urged before the Assistant Collector. In these circumstances, the Collector (Appeals) was not justified in recording any such finding.

The order passed by the Collector (Appeals) to the extent it permitted deduction of erection charges is set aside. The appeal is allowed.