

Bombay Tubes and Containers Vs. Cce

Bombay Tubes and Containers Vs. Cce

SooperKanoon Citation : sooperkanoon.com/12919

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Feb-20-1998

Judge : U Bhat, S T K.

Appellant : Bombay Tubes and Containers

Respondent : Cce

Judgement :

1. The appellant is absent in spite of notice. There is no representation. We have heard Shri M. Ali, JDR and perused the papers.
2. The dispute in this appeal relates to demand raised on element of cost of corrugated boxes in which the manufactured products, namely, aluminium collapsible tubes were packed at the time of clearance. The dispute relates to the period from July, 1983 to December, 1983. Show cause notice dated 24.10.1985 alleged that 61,612 corrugated boxes had not been returned by the buyers and, therefore, appellant was liable to pay duty on the element of cost of these boxes. After considering the defence raised by the assessee, the Additional Collector confirmed the demand only in regard to duty based on the cost of 8267 boxes. He also imposed penalty of Rs. 5000.00.
3. There is no dispute that the corrugated boxes in question were durable and returnable. It is also not in dispute that a very substantial portion of the boxes had actually been returned in accordance with the trade practice or agreement between the parties. In those circumstances, the cost of corrugated boxes cannot

be included in the assessable value and the question of paying duty on the number of boxes which were actually not returned would not arise. The impugned order is set aside and the appeal is allowed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com