U.P. Instruments Ltd. Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-15-1998

Reported in : (1998)(62)ECC413

Appellant : U.P. Instruments Ltd.

Respondent : Collector of Central Excise

Judgement :

1. Appellant, engaged in the manufacture of water meters, was supplying major part of the goods to Government Departments and small part to wholesale dealers, passing on trade discount to such wholesale dealers.

Appellant was following invoice price procedure in terms of Notification 120/75 and was paying duty on the actual invoice price, namely, the price less trade discount. In respect of clearance for the year 1984-85 it was found that the appellant had taken deposits from the dealers without liability to pay interest. Show cause notice was issued referring to the above facts and alleging that trade discount granted to buyers was taken back in the shape of interest on deposits and therefore trade discount was not admissible for deduction and proposing demand of duty on that basis. Though the appellant resisted the notice, the Additional Collector of Central Excise confirmed the demand and this order is now challenged.

2. The department had no case that the trade discount was not passed on to the buyer. The case is that the discount must be regarded as having been taken back since the appellant was not liable to and did not pay interest on the amount of

deposit received from the dealers. A statement of trade discount allowed to dealers and security deposit received from dealers during the year 1984-85 was produced along with the reply to the show cause notice (seen at pages 12 and 13 of the paper book); It shows that the appellant had 12 dealers to whom trade discount of Rs. 89,298.87/- was granted and the total security deposit received was Rs. 24,000/- that is, Rs. 2,000/- from each dealer. What the Adjudicating Authority has held is that Rs. 89,298.87/- allowed as trade discount to the buyers was taken back in the shape of interest on Rs. 24,000/- which at the rate of 10% would be Rs. 2,400/- per year.

The finding can only be regarded as unjust and unreasonable. If trade discount allowed was around Rs. 90,000/- in a year the assessable value of the goods supplied to dealers would have been around Rs. 6 Lakhs and the average value of goods supplied to each dealer would be Rs. 50,000/- against which each dealer was required to deposit Rs. 2,000/-.

There is nothing to indicate that the receipt of deposit had depressed the price. Trade discount allowed cannot be regarded as having been taken back either. Therefore, the Additional Collector was not justified in demanding duty on the element of trade discount. The impugned order is set aside and the appeal is allowed. The cross-objection is dismissed.