

Arkay Engineering Works Vs. Collector of C. Ex.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-15-1998

Reported in : (1999)(112)ELT846TriDel

Appellant : Arkay Engineering Works

Respondent : Collector of C. Ex.

Judgement :

1. Appeal E/4766/92-A relates to approval of price list and the other two appeals relate to consequential demand of differential duty for two periods, namely, August, 1990 to January, 1991 and February, 1991 to July, 1991.

2. Appellant is engaged in the manufacture of Cinni Brand electric fans in the factory situated in a backward area in U.P. State. The appellant also enjoyed the benefit of sales tax exemption in respect of sales within the State of U.P. The sales were through depots in and outside U.P. State. Appellant declared higher wholesale price for sales to dealers in U.P. State and lower price for sales to dealers outside U.P.State. Assistant Collector passed an order on the price list and another order on the demands holding that duty was payable for goods sold to dealers outside U.P. State on the higher price charged to dealers in U.P. State. These orders having been confirmed by the Collector (Appeals) in a common order, the present appeals have been filed.

3. We dealt with a similar situation in the case of Gujarat Heavy Chemicals Ltd. The order is reported in 1998 (26) R.L.T. 717 (Tribunal). The Tribunal held that

buyers in two regions should be regarded as falling in two different classes of buyers and therefore the higher price charged to buyers in one region cannot be regarded as the basis for determination of assessable value for goods sold to buyers of another region. In the case of another manufacturer of the same branded fans we have taken the same view as seen in Final Order dated 13-7-1998 in Appeal No. E/232/93-A. Following the above decision we hold that the dealers situated outside U.P. State fall in a different class of buyers and the assessable value of the goods cleared to such dealers should not be determined on the basis of higher price charged to the dealers in U.P. State. Consequently the approval order as well as confirmation of demand require to be set aside and they are set aside.

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