

Commissioner of Central Excise Vs. Libra Industries

Commissioner of Central Excise Vs. Libra Industries

SooperKanoon Citation : sooperkanoon.com/15316

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-04-1999

Reported in : (1999)(107)ELT348TriDel

Appellant : Commissioner of Central Excise

Respondent : Libra Industries

Judgement :

1. This appeal of the Revenue seeks remand of the order of the Collector confirming a duty demand of about Rs. 17 lakhs. The demand was raised on the ground that the clearances of two units namely M/s.

Libra Industries & M/s. Secca Scale Co. should be clubbed together and treated as one unit while allowing their claim to small scale exemption. The notice had also contended that installation charges and value of peripherals (supplied along with weighing machines) should be included in the assessable value of the goods. The Revenue has in its appeal contended that the printer unit (peripheral) is an essential part of the weighing machine. On the installation charges, it has been submitted that M/s. Libra Industries were including the installation charges in certain cases while paying duty.

2. Heard the learned DR Shri R.K. Sharma who has reiterated the grounds taken in the appeal of the Revenue. Heard Shri Gopal Prasad learned Advocate for the respondents.

3. Shri Gopal Prasad drew our attention to the specific findings contained in the adjudication order that the two units were in existence from 1967-1977 and that the capital for the units were from the same source; that both the units had separate manufacturing premises, places and separate work force. He also drew our attention to the finding that the printers in question were optional equipment and that they were being supplied alongwith the weighing machines only in 10% of the cases. He also drew attention to the finding that the installation charges are collected for the cost incurred in the installation of the machine and the charges were being collected by the persons who carried out the installation and that it was not compulsory for the manufacturer to get the installation done by the manufacturer and that in many cases, buyers themselves had installed the weighing machines. Shri Gopal Prasad submitted that printer is not to be treated as part of the weighing machine as it is an optional item. Its value is also not to be included in the assessable value of the weighing machine. He also submitted that installation charges are post manufacturing costs incurred outside the factory gate and are not liable to be included in the assessable value. He further submitted that in view of the clear findings in the adjudication order that the two units are separate with capital, machinery and machinery manufacturing premises and work force, there is no ground for clubbing their production and treating them as one unit.

4. We have perused the records of the case and have considered the rival submissions. We find that the finding with regard to optional equipment and installation charges are in conformity with the established law. With regard to the clubbing of the production of the units also, the adjudication order has given clear reasons for holding that the units are separate. The appeal of the Revenue does not bring out grounds for setting aside these findings. In the circumstances, the appeal fails and is dismissed.

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