

Modipon Ltd. Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-09-1999

Reported in : (1999)(66)ECC148

Judge : G B Deva, R T Lajja

Appellant : Modipon Ltd.

Respondent : Commissioner of Central Excise

Judgement :

1. Arguing for the appellant, Shri N.R. Khaitan, learned Advocate submitted that the appellants are engaged in the manufacture of Synthetic filament Yarn falling under Headings 5402 and 5403 of the Tariff. The appellant claimed following deductions in the assessable value of Synthetic Filament Yarn: 2. As regards first item, he submitted that the party has not claimed any Modvat credit and expenses incurred on account of collection, freight and repairs and maintenance, these expenses were allowed by the Assistant Collector. But the Commissioner (Appeals) in the impugned order while observing that these expenses are to be deducted, but he has not allowed in respect of repair and maintenance charges. He submitted that the Tribunal following the case of Indian Oxygen Ltd. has been consistently taking the view that these items are deductible in determining the assessable value including in the case of Commissioner of Central Excise, Meerut v. Spun Tubes Ltd. 3. After hearing both the sides and taking into consideration that the first issue has already been considered and concluded by the Tribunal.

We accept the contention of the assessee and accordingly hold that Cops charges including delivery and collection charges are to be deducted.

4. As regards second issue, it was submitted that this issue has also been covered by a series of decisions of the Tribunal including in the case of Raptakos Brett & Co. Ltd. v. Collector of Central Excise, Bombay 5. Shri Prabhat Kumar, learned SDR submitted that it is not clear whether the transit loss were actually incurred and this requires to be examined by the adjudicating Authority. Concurring with this submission, we direct the jurisdictional Assistant Commissioner to examine this issue afresh and to give a finding accordingly.

6. With reference to the clearing and forwarding charges, it was the contention of the party that these charges are incurred by the appellant after the goods are removed from the factory and in the nature of transportation charges and this issue has been covered by the decision in the case of Collector v. Detergents India . On the other hand, Shri Prabhat Kumar submitted that the issue has been decided in favour of the Revenue in the case of Aqueous Victuals Pvt. Ltd. v. Collector of Central Excise . Since we are remanding the matter on the second issue, the Assistant Collector may decide the issue in the light of the decision cited by both the sides and to pass an order accordingly, after providing an opportunity to the party.

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