Kothari Enterprises Vs. Cce

Kothari Enterprises Vs. Cce

SooperKanoon Citation : sooperkanoon.com/15599

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Apr-09-1999

Reported in : (1999)(85)LC83Tri(Mum.)bai

Judge : S T Gowri, G Srinivasan

Appellant : Kothari Enterprises

Respondent : Cce

Judgement :

1. The questions for consideration in this appeal is whether the cost of moulds manufactured on the order of the appellant, used by it for manufacture of parts of motor vehicle is to be included in the assessable value of such parts and if so, the mode of inclusion.

2. Advocate for the appellant says that he does not wish to press the ground that the cost of mould is not includible in the value of the part. He says that the rate is includible in the assessable value of the parts which are manufactured. Each mould is used to make a large number of parts before it becomes unserviceable by reason of wear and tear for the purpose. The question that then arises is how cost of the mould is to be included in the assessable value of these parts. On this the advocate for the appellant submits that the guidelines prescribed by the Board in its circular 170/4/96-CX dated 23.1.1996 [1996 (62) ECR 108C] have been applied by the Tribunal in its decision in Flex Industries Ltd. v. CCE 2.1. The Board in its circular had said that the cost of patterns is to be included in the assessable

value of the casting made out of such patterns. It has clarified that the proportionate pattern is to be included in the assessable value of the castings. Whether there was difficulty in ascertaining the cost of the pattern the expected life and capability of the pattern, and the quantity of casting which can be manufactured pattern should be applied, if necessary a reference to a certificate of cost accountant.

3. The inclusion in the assessable value of the parts cost of the mould not being questioned, we confirm the order of the Collector (Appeals).

The departmental representative does not dispute the applicability of the Board's circular. Accordingly, we set aside the part of the order confirming the part of duty issued on the parts so far manufactured out of the moulds. We direct that the duty may be worked out after applying the guidelines of the Board's circular and the matter decided by the Assistant Commissioner, in accordance with law.