

Collector of Central Excise Vs. Moon Beverages P. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-10-1999

Reported in : (1999)(65)ECC500

Appellant : Collector of Central Excise

Respondent : Moon Beverages P. Ltd.

Judgement :

1. The Revenue is aggrieved by the order of the Commissioner of Central Excise (Appeals), Ghaziabad who has rejected the Revenue's appeal filed before him against the Order-in-Original passed by the Assistant Collector, extending Modvat credit to the respondents on glass bottles and plastic crates used for packing of aerated waters. Credit was held to be available on the ground that the cost of the glass bottles and plastic crates was included in the assessable value of aerated waters.

The Revenue's contention is that since in the price list filed by the respondents effective from 1-3-1994, it has been clearly mentioned that "bottles of durable and returnable nature cost of which is also included in the prices", the respondents are not entitled to credit and that the certificate of the Chartered Accountant which has been relied upon to hold that the cost of packing material has been included in the assessable value cannot override the position reflected in the relevant price list which is the basic document for determination of assessable value. The further contention of the Revenue is that the certificate issued by M/s. Vijay Hari & Co., Chartered Accountants, New Delhi is of a general nature and does not mention

anything about the raw material cost, manufacturing cost, handling charges, etc., which are the other components of assessable value and that M/s. Vijay Hari & Co. are not a statutory auditor of the respondents whose statutory auditor is Kamal & Co. Shri Pradeep Jain, learned Advocate reiterates the findings contained in the impugned order, highlighting that the material on record clearly substantiates their claim that they had included the cost of packing material in the assessable value of the aerated waters manufactured by them.

2. We have carefully considered the submissions of both sides. We see substantial merit in the plea of the DR that the certificate of the Chartered Accountant has been given undue weightage and is not sufficient for establishing the vital issue of inclusion of cost of packing material in the assessable value of the aerated waters. Since credit is available only if the cost of material has been included in the assessable value of the aerated water, we are of the view that the matter requires detailed and complete verification. Therefore, for this purpose, we remand the matter to the Commissioner (Appeals) who shall satisfy himself on this aspect on the basis of evidence to be adduced before him by the assesseees, who shall be heard by him before passing a fresh order. In the result, we set aside the impugned order and allow the appeal by way of remand as indicated above.

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