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Commissioner of Central Excise Vs. Anuj Auto Industries

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-03-2000

Reported in : (2000)(119)ELT182TriDel

Appellant : Commissioner of Central Excise

Respondent : Anuj Auto Industries

Judgement :

1. In this appeal filed by the only issue for our consideration is whether the respondents M/s. Anuj Industries were eligible for the trade discount of 21%. The respondents had initially claimed 21% discount for their major sales and 40% discount for few buyers. The Commissioner of Central Excise (Appeals) had disallowed the higher discount of 40% and the respondents have not filed an appeal against that part of the order.

2. The only ground taken by the Revenue in this appeal is with regard to the 21% discount that it was not known at the time of the removal as most of the sales were on credit basis. It has also been pleaded by the Revenue that the sale orders were verbal and all the sales at the factory gate were on credit basis.

3. Shri Surinder Mullick, Advocate replied that in the trade of motor vehicle parts the 21% discount was reasonable and normal, the sales have to be made on credit as the dealers were not lifting the stocks on cash sale basis and that even when the sales were on credit, invoices were being issued and the discount shown therein.VST Industries Ltd. v. Commissioner of Central Excise, Hyderabad, 1999

(114) E.L.T 676 (T).

5. After hearing both the sides and after perusing the records, we find that the Commissioner of Central Excise (Appeals) had recorded that as per the trade practice, the trade discount was given and that even when the sales were on credit basis, it was reflected in the invoices. He had also recorded that the transactions were at arms length. He had disallowed the higher discount of 40% and had considered the 21% discount as a normal trade discount which is permissible under the law.

6. We have also gone through the grounds of appeal of the Revenue and we find that no material has been placed on record to show that the discount was not known at the point of clearance. The ground that the sale orders were verbals could not justify the rejection of trade discount in the absence of any mala fide or mal-practice.

7. After going through the impugned order in appeal and the grounds of appeal taken by the Revenue, We do not find any material on record to disturb the findings of the learned Commissioner of Central Excise (Appeals). As a result the appeal filed by the Revenue is rejected.

Ordered accordingly.

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