

Commissioner of C. Ex. Vs. Shama Engine Valves Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-11-2000

Reported in : (2000)(119)ELT508TriDel

Appellant : Commissioner of C. Ex.

Respondent : Shama Engine Valves Ltd.

Judgement :

1. Revenue is in appeal. Short facts necessary for disposal of the appeal are as follows : Various price lists were submitted by the manufacturer for approval by the Department. Those price lists were approved with the direction to include inspection charges as well to the assessable value of the goods manufactured. The manufacturer took up the decision of the adjudicating authority in appeal. Appellate authority by order, dated 28-3-1994 agreed with the adjudicating authority and upheld the order stating that inspection charges incurred by the manufacturer should also form part or assessable value of the goods manufactured. The manufacturer took up the matter in appeal before this Tribunal. By Final Order No. 930/98-A, dated 7-7-1998 this Tribunal upheld the contention of the manufacturer and found that inspection charges cannot be added to the assessable value of the goods manufactured. Since duty was being paid reckoning inspection charges as well, the manufacturer filed application to refund the excess duty paid. The Assistant Commissioner allowed the prayer and refunded the amount to the manufacturer. That order was reviewed by the Commissioner and pursuant to that order of review, appeal was filed before

Commissioner (Appeals). Commissioner (Appeals) by reasoned order dismissed that appeal. Aggrieved by the order of the Commissioner (Appeals), the Revenue had preferred this appeal.

2. As per decision binding between the manufacturer and the Revenue, manufacturer was bound to pay duty on the assessable value excluding inspection charges incurred by him. By virtue of the earlier order passed by the adjudicating authority and the Commissioner (Appeals) inspection charges were included in the assessable value and duty was paid accordingly. When the Tribunal directed exclusion of inspection charges from the assessable value, the manufacturer was liable to pay duty only on a lesser value. This fact has been accepted by the authorities below rightly. In spite of that this appeal had been filed by the Revenue without any justification. Revenue has taken a most cantankerous stand in this appeal. We dismiss this appeal.

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