

Collector of C. Ex. Vs. Spectrum Pharmaceuticals

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jun-21-2000

Reported in : (2000)(119)ELT737TriDel

Appellant : Collector of C. Ex.

Respondent : Spectrum Pharmaceuticals

Judgement :

1. In these two appeals - one filed by M/s. Spectrum Pharma Pvt. Ltd. and the other filed by the Revenue -the issue involved is deductions to be made from the assessable value under Section 4 of the Central Excise Act.

2. In the impugned order, the Collector (Appeals) has allowed special discount given by the assessee company to their stockist. On the other hand, the Collector (Appeals) has disallowed the additional discount, free supply on account of breakages and date of expiry, and interest on finished goods/stocks. Shri S.S. Gupta, learned CA, submitted that the additional discount and free bonus is allowable as per the decision of the Supreme Court in the case of Metal Box of India Ltd. v. Union of India reported in 1995 (75) E.L.T. 449 S.C. He further submitted that this discount is allowable as long as the discount is known at or prior to removal of the goods. In respect of free supply on account of breakage, he relies upon the decision in the case of Raptakos, Brett & Co. v. Collector of Central Excise, Bombay reported in 1998 (75) ECR 294 (T) wherein the discount on account of breakage was allowed.

Finally he submitted that the interest on receivables has been allowed by the Supreme Court in the case of Government of India v. MRF Ltd. reported in 1995 (75) E.L.T. 413 and also in the case of Raptakos (supra). He, however, conceded that the discount on account of expiry of the date of the medicines and deductions on account of interest on stocks are not available on account of the decisions of the Supreme Court in the case of MRF and of the Tribunals.

3. We also heard Shri R.S. Sangia, learned DR who reiterated the grounds of appeal contained in the memo of appeal.

4. We have considered the submissions of both sides. As per the decision of the Supreme Court in the case of Bombay Tyres International and MRF any trade discount which is known prior to the removal of the goods and is given in the course of the trade is an allowable deduction. The mere fact that the special discount is allowed only to the stockists, it cannot be disallowed and the discount is an allowable deduction. It is not the case of the Department that this discount was not known prior to the date of the removal of the goods. In view of this, the special discount is an allowable deduction and accordingly, the Department's appeal filed on this aspect is rejected. Similarly, for the same reasons the deduction on account of additional discount/free bonus is admissible as uniformity in trade discount is not one of the criteria as held by the Supreme Court in the case of Metal Box of India. Following the decision in the case of Raptakos, Brett & Co. Ltd. (supra) the free supply on account of breakage is an admissible deduction. The interest on receivables has been allowed by the Supreme Court in the case of MRF Ltd. and as such, the assessee company is eligible for the same. Deduction given by the assessee company on account of date of expiry and deductions sought on account of interest on receivables have been given up by the assessee company and as such, these are not to be deducted from the assessable value.

5. Accordingly, the appeal filed by the Revenue as well as by the assessee company are allowed partly in the above terms.