

**Commissioner of Central Excise Vs. A. Infrastructure Limited**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Aug-30-2000

**Reported in :** (2000)(71)ECC867

**Appellant :** Commissioner of Central Excise

**Respondent :** A. Infrastructure Limited

**Judgement :**

1. M/s. A. Infrastructure Limited, Hamirgarh, Bhilwara (Rajasthan), are manufacturers of 'A.C. Pressure Pipes' which are liable to central excise duty. Their buyers are mostly public health departments of the State Government. The goods are delivered at work sites by the manufacturer. Therefore, in terms of the agreement, the manufacturer charged freight in addition to the value of the goods. Later on, after the actual transportation took place, it was noticed that, in certain cases, the freight claimed by the manufacturer from the buyer was more than the actual freight paid. In certain cases, the freight claimed was also less than the actual freight incurred. The Assistant Commissioner of Central Excise, in his adjudication order dated 28-11-97, held that the manufacturer was liable to pay duty of Rs. 20,977/- in respect of freight claimed in excess of the actual amounts spent towards freight.

He, however, allowed a deduction of Rs. 9,190/- in respect of cases where actual freight paid was more than the freight claimed. Thus, the net amount of duty payable worked out to Rs. 11,787/-. The assessee took up the matter in appeal to Commissioner (Appeals), Jaipur. That Commissioner allowed his appeal holding

that excess amount claimed as freight cannot form part of the assessable value of the goods and therefore, he allowed the appeal. He was following the decisions of the Supreme Court in the cases of Indian Oxygen Ltd. v. CCE [1988 (36) E.L.T. 723 (SC)] and Baroda Electric Meters Ltd. v. CCE [1997 (94) E.L.T. 13 (SC)] while passing his order. The Revenue is in appeal against this order.

2. We have heard the learned Departmental Representative and the learned counsel representing the assessee. The facts of this case clearly come within the decisions of the Supreme Court in Indian Oxygen Ltd. and Baroda Electric Meters. We, therefore, find no merit in the appeal of the Revenue. The same fails and is rejected. We are constrained to observe that Revenue is subjecting small assesseees to avoidable hardship by pursuing tax disputes involving insignificant amounts endlessly. They should draw a line demarcating the cases where issues are to be pursued before higher fora. Such demarcation would be in the interests of the assesseees and department as well.

3. Registrar shall forward a copy of this order to the Chairman, Central Board of Excise and Customs.

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