Commr. of C. Ex. and Cus. Vs. Shree Vindhya Paper Mills Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Sep-09-2000

Reported in : (2000)(122)ELT74Tri(Mum.)bai

Appellant : Commr. of C. Ex. and Cus.

Respondent : Shree Vindhya Paper Mills Ltd.

Judgement :

1. The common consideration in these six appeals is the value at which cess leviable under the Paper and Paper Board Cess Rules, 1981, should be levied on the paper manufactured by the respondent. In the order impugned in the appeal, the Commissioner (Appeals) has held that this value should be the value under Section 4 of the Central Excises and Salt Act, 1944.

2. The appeal seeks a finding that for purpose of levy of cess, the value should include the element of excise duty payable on the goods.

Reliance is placed upon the definition of the term "value" occurring in the Explanation to Section 9(1) of The Industries (Development and Regulation) Act, 1951, which is the authority for levy and collection of cess on goods manufactured or produced in an industry.CCE v. Engineering Co. -1997 (92) E.L.T. 303 has explained that the definition contained in the explanation to Section 9(1) of the Act is only for the purpose of the proviso under that subsection which provides that cess shall not exceed 2 per cent of the value of the goods. That definition, it says, does not apply to valuation of goods for pur-pose of computation of cess under a notification under which automobile cess was levied. It said that what is relevant is Rule 3 of Automobile Cess Rules which states that the provision of Central Excises and Salt Act will apply in relation to the levy and collection of the cess.

4. The only difference in the case before us is that the cess is on paper and paper board to be levied in terms of the Paper and Paper Board Cess Rules, 1981. Rule 3 of these rules is identically worded, except with regard to the subject matter of the cess - paper and paper board - with Rule 3 of the Automobile Cess Rules, 1951. The ratio of the Supreme Court's judgment will apply to cess collected under these rules. The Commissioner (Appeals) was correct in holding that it is the value as defined in Section 4 of the Central Excises and Salt Act, 1944 on which the cess should be levied.