

Reliance Industries Ltd. Vs. Commr. of C. Ex. and Cus.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-04-2000

Reported in : (2001)(133)ELT773Tri(Mum.)bai

Appellant : Reliance Industries Ltd.

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

Judgement :

1. The question for consideration in this appeal is the eligibility to deduction from the assessable value of the goods manufactured by the appellant of various discounts. We shall discuss each of these discounts.

2. (a) Annual incentive at 7% for suiting and 4% for shirting and dress material. This incentive provides for deduction from the price of the suiting and shirting depending upon the quantity purchased by the dealer in the course of the year a maximum of 7% for suiting and 4% for shirting and dress material. This has been denied on the ground that it is an incentive and not a discount, and that it is not quantified when the goods are sold. This incentive appears to us to be nothing other than annual turnover discount considered by the Supreme Court in its judgment in Government of India v. Madras Rubber Factory Ltd. -1995 (77) E.L.T. 433. In paragraphs 55 to 58 of its judgment, the Court allowed discount given to the dealer depending upon the volume of the purchases made by each half year on the ground that this was a discount which is known and understood at the time of removal of the goods, though it is quantified later. Hence, the discount in the present case is also entitled to deduction.

(b) "No goods return" discount of 0.5% is given to a dealer who does not return any of the goods supplied to him for any reason. This discount has also been disallowed on the ground that it is discretionary, and it is in the nature of an incentive. Any trade discount which is known prior to removal of the goods and is given in the course of the trade has been held to be allowable deduction in the cases of MRF and Union of India v. Bombay Tyre International -1984 (17) E.L.T. 329. This discount would, therefore, qualify for deduction. The reason for this disallowance is that it is at the discretion of the appellant, are not clear. If the conditions for granting the discount are fulfilled, it will have to be allowed.

(c) "No hundi return" discount of 0.5% granted to a dealer whose hundies are not dishonoured is really nothing other than a discount for prompt payment and will have to be treated as such and thus allowable.

(d) Quantity discount of 3% for shirting and dress materials has been disallowed on the ground that it was not known at the time of removal of the goods. The discount was provisionally allowed in 1989 on the price list filed by the appellant and therefore, could not be said not to have been known when the provisional assessment was finalised later.

The reason for denial of this discount, this is not valid, and it is allowed.

(e) The last is the discount of. 5% allowed to dealers who deal exclusively for the goods manufactured by the appellant, and did not deal in any goods manufactured by a competitor. The criterion is purely a commercial criterion and here again there is no element of discretion involved that we can see. This also is allowed.

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