

Commr. of C. Ex. and Cus. Vs. Hodak Engineering Pvt. Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-18-2000

Reported in : (2001)(127)ELT720Tri(Mum.)bai

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

Respondent : Hodak Engineering Pvt. Ltd.

Judgement :

1. The respondent to this appeal manufactures vibration dampers, a component of motor vehicles and sold them at two prices to Kirloskar Cummins Ltd. The department did not accept the contention in support of sale at two prices simultaneously to the same buyer advanced by the assessee. This contention was that one of the prices was for supply to the buyer as a dealer, the other was for supply to it as a manufacturer of original equipment. The Asst. Collector (whose order has been confirmed by the Collector (Appeals) in an appeal filed by the department) found nothing illegal or irregular in the assessee's action and dropped the proposal in the notice to adopt the higher value of the goods supplied as original equipment. Hence this appeal by the department.

2. The ground in the department's appeal is that the same buyer cannot be in more than one class of buyers at the same time. We see nothing in Section 4 of the Act which militate against this view. The reason advanced for the two prices to the same manufacturer is acceptable. A customer who has a component of a product manufactured by him would buy large quantity of that component. He is also an assured customer whose purchase will remain more or less steady for

many years. Hence such a buyer could be expected to get a lower price than others. The Asst.

Collector records that the price of the goods supplied to the respondent as original equipment was comparable with the price at which the goods that were supplied to TELCO, another original equipment buyer. The fact that M/s. Kirloskar Cummins purchased from the respondent some other goods at higher price as a dealer comparable to price at which the other dealers purchased the goods, is by no means not in accordance with the law. We therefore see no reason to interfere and dismiss the appeal.

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