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Commissioner of Central Excise Vs. Jaln Drinks (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-15-2002

Reported in : (2002)LC511Tri(Delhi)

Judge : K Usha, N T C.N.B.

Appellant : Commissioner of Central Excise

Respondent : Jaln Drinks (P) Ltd.

Judgement :

1. Challenge in this appeal at the instance of the Revenue is against the order passed by the Commissioner (Appeals) vide order in appeal No.464(KDT)CE/JPR-I(245)2001, dated 3-7-2001. The Commissioner (Appeals) has allowed the appeal filed by the assessee following a decision of this Tribunal in Goa Bottling Co. Ltd. v. CCE [2001 (128) E.L.T. 81 (T-LB) - 2001(42) R.L.T. 586] holding that if the packaging contained only one retail price it has to be assessed on the basis of that price and not the higher MRP printed on other packages.

2. It is contended on behalf of the appellant that the decision of the Commissioner (Appeals) is not sustainable since in respect of the goods sold by the appellant in the areas other than Delhi the MRP shown is as Rs. 40/-. If that be so, according to the Revenue by applying Explanation II to Section 4A of the Central Excise Act the higher MRP has to be taken into consideration for arriving at the assessable value.

3. We do not find any merit in the above contention. Admittedly, as far as the goods sold in Delhi with which we are concerned in these proceedings, only one MRP is printed as Rs. 35/-. If that be so, the Commissioner (Appeals) was justified in following the ratio of the decision of this Tribunal in Goa Bottling Co. Ltd.

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