Bwl Ltd. Vs. Commissioner of C. Ex.

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SooperKanoon Citation : sooperkanoon.com/28606

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-29-2002

Reported in : (2003)(151)ELT552TriDel

Judge : S T G.R., P Bajaj

Appellant : Bwl Ltd.

Respondent : Commissioner of C. Ex.

Judgement :

1. This appeal has been preferred by the appellants against the impugned Order-in-Appeal dated 29-10-2001 passed by the Commissioner (Appeals) vide which he upheld the order-in-original passed by the Deputy Commissioner of Central Excise dated 13-3-2001 disallowing the deductions claimed by them from the assessable value of their goods.

2. The appellants are engaged in the manufacture of optical fibre cables. They supplied the goods to the Department of Telecommunication under purchase order on a consolidated price inclusive of packing charges, freight, insurance etc. They claimed deduction on account of excise duty, charges for freight, insurance, loading and unloading, liquidated damages, interest on receivables, and salaries of the marketing staff. These charges, according to them, incurred under the various heads were in the nature of post removal expenses. The adjudicating authority disallowed these charges and that order of the adjudicating authority was affirmed by the Commissioner (Appeals).

4. The learned counsel has contended that there are numerous judgments of the Tribunal as well as of the High Courts and Apex Court allowing the deductions on account of freight, insurance, loading and unloading charges from the assessable value of the goods under Section 4 of the Central Excise Act. Therefore, the authorities below were duty bound to allow deductions as claimed by the appellants. But we find that the appellants have nowhere provided breakup in details of the charges incurred by them on account of freight, insurance, loading and unloading charges, liquidated damages etc. in order to determine their eligibility to claim deduction of the same from the assessable value of the goods supplied by them to the Telecommunication Department. The learned counsel has not been able to point out such a break up. The perusal of the impugned order of the Commissioner (Appeals) also shows that no evidence was adduced by the appellants in support of the deductions claimed by them. The learned counsel has, however, stated that the appellants are prepared to furnish the break up of the deductions claimed by them and the matter may be sent to the adjudicating authority to decide the claim of the appellants afresh keeping in view the law laid down by the Tribunal in many cases and also by the High Courts and Supreme Court which will be cited before that authority. We feel inclined to accept this request of the counsel keeping in view the facts and circumstances of the case and in the interest of justice.

5. The learned SDR has no doubt reiterated the correctness of the impugned order of the Commissioner (Appeals). But, in the light of the facts and circumstances of the case, referred to above, we find it a fit case to remand the matter back to the adjudicating authority for deciding the claim of the appellants afresh in accordance with law, on their furnishing details of the expenses, under different heads, claimed by them by way of deductions from the assessable value of their goods for the purpose of Section 4 of the Act.

6. In view of the discussions made above, the impugned order of the Commissioner (Appeals) is set aside and the matter is sent back for fresh decision in accordance with law after hearing both the sides. The Cross Objections filed by the Revenue also stand disposed of accordingly.