

D.D. Industries Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-31-2002

Reported in : (2003)(107)LC350Tri(Delhi)

Judge : S Kang, a T V.K.

Appellant : D.D. Industries

Respondent : Cce

Judgement :

1. The issue involved in this appeal, filed by M/s. D.D. Industries, is whether the special discount allowed by them to M/s. D.D. Sales Corporation is an admissible deduction from the assessable value.
2. Shri R.P. Singh, learned Advocate, submitted that the appellants manufacture motor vehicle part; that as per discount policy, they decided to grant additional 4% (turn over) discount depending the target value of goods purchased by a dealer in different regions of the country; that the Assistant Commissioner disallowed the said discount on the ground that they had departed from their own scheme inasmuch as they granted a discount higher than the one circulated to the trade, to one dealer each in Tamilnadu, U.P., Bihar and Calcutta regions in spite of the fact that the dealers had not reached the target of purchase and the discount was given to Delhi Region dealer at the time of clearance whereas it was given to others at the end of the year only by credit notes; that the Commissioner (Appeals) also rejected the appeal on the ground that the discount given to D.D. Sales was

not a well defined discount and was not given to everybody. He further, submitted that as per Section 4(1)a(i) of the Central Excise Act, different prices charged to different class of buyers shall be deemed to be normal price; that as such there can be different prices for different classes of buyers; that the assessable value in one region has nothing to do with the assessable value obtaining in other region. He relied upon the decision in the case of Godrej Soaps Ltd. v. CCE, Mumbai-II wherein it has been held that "Clause (i) of the proviso to Section 4(1)(a) recognizes the legality of different class of buyers for the same product where there is a practice of sale at different prices to buyers of different classes". He also relied upon the decision in the case of Arkay Engineering Works v. CCE, Allahabad .

3. Countering the argument, Mrs. Krishna A. Mishra, learned S.D.R.reiterated the findings as contained in the impugned order and the Adjudication Order and emphasised that the special discount given to M/s. D.D. Sales did not represent the normal price and it was extra commercial consideration; that on account of variation in the target discount scheme and the fact that special discount given to D.D. Sales was not given to other buyers, the same is not allowable.

4. We have considered the submissions of both the sides. The Appellants have claimed that they had declared the discount, to be given in different regions. We find substance in their submission that it is not necessary that the discount given by them should be uniform in all the regions. It has been held by the Tribunal in the case of Arkay Engineering Works (supra) that "buyers in two regions should be regarded as falling in two different classes of buyers and, therefore, the higher price charged to buyers in one region cannot be regarded as the basis for determination of assessable value for goods sold to buyers of another region". It is also not the case of the Revenue that the impugned discount was not known at or prior to the removal of the goods. No material has also been brought on record to show that the said discount was not given to other buyers in the same region. In view of this, we do not find any reason disallow the discount. Accordingly, we allow the appeal.