Executive Director, Mpseb Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-09-2002

Reported in : (2003)(87)ECC202

Judge : K Usha, a T V.K.

Appellant : Executive Director, Mpseb

Respondent : Commissioner of Central Excise

Judgement :

1. Challenge in this appeal at the instance of the assessee is against the Order passed by the Commissioner (Appeals), dated 26-2-2002. The appellant a unit of Madhya Pradesh Electricity Board/ is engaged in the manufacture of PCC poles for distribution/ transportation of electrical energy. The issues in dispute are whether the cost of broken poles are to be added for the purpose of arriving at the assessable value of PCC Poles cleared by the assessee and whether it is the actual interest that was paid to the supplier of the raw material for delayed payment during the relevant period, that has to be taken into consideration for the calculation of the cost of manufacture or interest cost for the earlier period. The Commissioner (Appeals) rejected the contention raised by the assessee on both the issues. Aggrieved by that Order the assessee is in appeal before us.

2. During testing of poles there arises a breakage to the extent of about 2%. These broken poles are cleared on payment of duty under Heading 6807 on the value as approved by the Department. Therefore, the appellant excluded the cost of the

broken pipes from the cost of manufacture of good poles. We find merit in the contention raised by the appellants. Since they are paying duty on clearing the broken poles its cost cannot be added for the purpose of computing manufacturing cost of the good poles. No reason has been given by the Commissioner (Appeals) to reject the above claim. So also we find that the appellant is fully justified in contending that the actual interest cost for the period 1-2-1998 to 31-7-1998 has to be taken into consideration for the purpose of calculating the cost of manufacture of the poles and not the interest cost for the period 1st February, 1997 to 31st July, 1997. It is not correct to say that no details of the actual cost was made available by the assessee. Calculation sheet for payment of interest charges for PCC Poles on purchase of cement for the period 1-2-1998 to 31-7-1998 has been separately given.

3. In the light of the above we set aside the Order impugned and allow the appeal.