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Commissioner of Central Excise Vs. Advent Pharma (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Oct-27-2003

Reported in : (2004)(165)ELT346Tri(Mum.)bai

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

Appellant : Commissioner of Central Excise

Respondent : Advent Pharma (P) Ltd.

Judgement :

1. The present appeal arises out of Central Excise Valuation of Metronidazole I.P. manufactured and sold by the respondents. This drug was under statutory price control during the relevant period. The appellants adopted the maximum sale price notified under the Drug Price Control Order, 1987 for the purpose of determining the assessable value of Metronidazole I.P. The dispute was raised by the Revenue authorities holding that the respondents had received some additional amounts through debit notes from certain buyers and accordingly demanded Central Excise duty on such additional realisations. The respondents resisted the demand on the ground that the valuation provisions in Central Excise Law contain a specific provision that where the goods are sold under statutorily fixed price, such statutory price would constitute the assessable value and, therefore, the correct duty had been paid by the respondents. This submission of the respondents found favour with the Commissioner (Appeals).

2. We have perused the records and considered the submissions made by both sides. The respondents' contention that when the goods are under statutory price control, that price should form the assessable value is clearly in terms of Section 4 of the Central Excise Act. That being the case, there was no short levy. The present appeal of the Revenue has no merit and is accordingly rejected.

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