

Universal Glass Vs. Cce

Universal Glass Vs. Cce

SooperKanoon Citation : sooperkanoon.com/33147

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-20-2003

Reported in : (2004)(112)LC677Tri(Delhi)

Judge : N T C.N.B., P Chacko

Appellant : Universal Glass

Respondent : Cce

Judgement :

1. The differential duty demand is in respect of captively consumed goods. Originally, the goods were subjected to duty based on the value of comparable goods. The present impugned order has held that goods are required to be assessed on the cost of production and when the assessment is made on that basis, there was a short levy of about Rs. 8 lakhs.

2. It is the submission of the learned Counsel for the appellants that it is not in dispute that the goods sold by the appellants to unrelated parties were comparable goods. On that basis only, the original assessment was made. The Assistant Collector has also approved assessee ex-factory prices to independent buyers. The learned Counsel points out that it is well settled that assessment based on cost of production can be undertaken only if comparable price is not available Ashok Leyland Ltd v. CCE, Madras The learned Counsel also cites an earlier order of this Tribunal in the appellants own case reported in 2000 (88) ECR 726 which had also held that the goods captively consumed by the appellants are to be

valued based on the price of comparable goods.

3. We have perused the records and heard the submissions made on behalf of the Revenue also. Since the comparable goods were available in the present case, the assessment was to be done based on the sale price of comparable goods. Original assessment and payment of duty was on this basis. There was no requirement to make the assessment on the basis of cost of production. The present duty demand is not sustainable since it has been raised after re-assessment of goods on the basis of cost of production. The impugned order is set aside and the appeal is allowed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com