

Commissioner of C. Ex. Vs. Aquamall Water Solution Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-10-2003

Reported in : (2004)(164)ELT427TriDel

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

Appellant : Commissioner of C. Ex.

Respondent : Aquamall Water Solution Ltd.

Judgement :

1. Revenue is in appeal against the order passed by the Commissioner (Appeals) dated 30-5-2003. The adjudicating authority had confirmed the demand of Rs. 55,58,217/- against the respondent herein under Section 11A and imposed equal amount of penalty. The allegation was that the calculation of abatement i.e. 20% retailer's margin made by the appellant for the period 1-4-1999 to 30-6-1999 was incorrect which resulted in the enhancement of assessable value. The appellant sold their goods to their holding company viz. M/s. Eureka Forbes Ltd. which in turn do not sell the goods in retail but through dealer's network by door to door basis and expenses thus incurred by M/s. Eureka Forbes Ltd. are called as retail expenses. The appellant has claimed these expenses as 'Retailers Margin' to the extent of 20%. This 20% retailers margin was calculated on the MRP prices of their product. Under order dt. 26-8-1986 passed by the CCE, Hyderabad, the above method had been approved. The above order has attained finality as there was no challenge by the Department.

2. The Commissioner (Appeals) took the view that the calculation made by the assessee is correct on the basis of Rule 6(a) and also on the basis of the Board's clarification vide Circular MR (DRI) F. No. 312/1 /75-CX., dated 8-8-1975.

3. We heard Id. DR for the appellant and Id. Counsel for the respondent. We do not find any reason to hold that the Commissioner (Appeals) has committed an error while following the clarification issued by the Board and Rule 6(a). In the result, we find no merit in the appeal filed by the Revenue. The appeal stands dismissed.

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