Commissioner of Central Excise Vs. Bhaskar Ispat (P) Ltd.

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SooperKanoon Citation : sooperkanoon.com/33393

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-11-2003

Reported in : (2004)(164)ELT422TriDel

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

Appellant : Commissioner of Central Excise

Respondent : Bhaskar Ispat (P) Ltd.

Judgement :

1. Issue arising in this appeal is whether the charges for the inspection by RITES is liable to be added to the assessable value of the goods cleared by the appellant/assessee. It is seen that there are number of decisions of this Tribunal on this issue conflicting with each other. In the appellant's own case in Hindustan Gas & Industries Ltd. v. Commissioner of Central Excise & Customs, Baroda [2001 (133) E.L.T. 481 (Tri.)] a co-ordinate Bench of this Tribunal has taken a view that absence of optionality and the existence of every buyer insisting upon tests by RITES, make the charges thereof includible in the assessable value. In appellants own case the Calcutta Bench of the Tribunal in its Final Order Nos. A-393-394/Cal./2003, dated 10-6-2003 [2003 (161) E.L.T. 822 (T)] has taken a different view. It is seen that the Bombay decision is not referred in the order passed by the Calcutta Bench but number of other decisions taking different views have been referred in the case.

2. In the light of the above, we find it is necessary to refer the issue for consideration by a Larger Bench. Adjourned. The case may be sorted after Larger Bench pronounces its order on this issue.