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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-03-2004

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

Appellant : ind Swift Ltd.

Respondent : C.C.E.

Judgement :
1. The issue raised in these appeal at the instance of the assessee is whether the value of wyring which is admittedly a bought out item has to be added in arriving at the assessable value to the P & P Medicine manufactured by it and cleared for the reason that it has combination packet. Commissioner (Appeals) took the view that it cannot. According to Commissioner (Appeals), there is no manufacture of syringe by the appellant and if it does not become an integral part of the above P & P medicine, its value cannot be added to the assessable value of the medicine.

2. Learned DR relied on the decision of this Tribunal in the case of Glaxo (I) Ltd. Vs. CCE, Kanpur (2002-TAXINDIAONLINE-64-CESTAT-DEL-SB) which was affirmed by the Supreme Court [1996 (84) ELT A-160). He has also placed reliance on the decision of this Tribunal in the case of Geoferey Manners and Co. Ltd. Vs. CCE, Pune, 3. Learned Counsel appearing on behalf of the respondent contended that the view taken by the Commissioner (Appeals) is in consonance with the ratio of the decision of the Supreme court in Shriram Bearings Ltd. Vs.

CCE., Patna, 2002-TAXINDIAONLINE-47-SC-CX. Reliance has also been placed by the learned Counsel on the decision of the Supreme Court in PSI Data Systems Ltd. V. CCE, 4. In Shriram Bearing Ltd., the issue came up for decision before the Hon'ble Supreme Court was one relating to the value for the purpose of excise duty of ball bearings manufactured by the assessee. According to the assessee, the ball bearings were complete when they consisted of the inner ring, the outer ring, the ball or rollers and the cage. Snap rings, sleeve lock devices, cup assemblies, oil seals, eccentric collars dust shields etc. were accessories and not necessary for the manufacture of the complete ball bearings. On the other hand, Revenue contended that duty liability had to be determined at the of clearance and the ball bearings had been actually removed from the appellant's factory fitted with accessories. Therefore, according to Revenue, the composite value thereof was the excisable value of the ball bearing.

Hon'ble Supreme Court did not accept the contention raised by the Revenue. After referring to the tariff entry at the relevant time which read, "rolling bearings, that is to say, ball or roller bearing, all sort", the Supreme Court observed that what fell under this entry were the ball bearings and not what, admittedly, are the accessories thereof. Under these circumstance, it was held that value of accessories cannot be added to the assessable value of the ball bearings.

5. We find that the ratio of the above decision is directly applicable to the facts of the present case. The syringe was admittedly a bought out item and not an integral part of the medicine which was manufactured and cleared by the assessee and there fore its cannot be added to the assessable value of the P & P medicine. We find that the view taken by the Commissioner (Appeals) is in consonance with the ratio of the above decision of the Supreme Court. In the result, there is not merit in the appeals by Revenue and stand dismissed.