Commissioner of Central Excise Vs. Alcatel India Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-26-2004

Reported in : (2004)(171)ELT427TriDel

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

Appellant : Commissioner of Central Excise

Respondent : Alcatel India Ltd.

Judgement :
1. The respondent is a manufacture of telecom equipment. The basic issue raised in these appeals of the Revenue is whether freight and insurance should form part of the assessable value of the equipment.

Commissioner (Appeals) held that the sale of the goods had taken place prior to their transport and therefore, place of removal cannot be taken as the buyer's premises so as to include freight and insurance in the assessable value. While reaching that decision, he was guided by the decision ot the Apex Court in the case of M/s. Escorts JCB Ltd. v.C.C.E., Delhi-11 2. We have perused the record and heard the submissions made on behalf of both the sides. A perusal of the sale invoices produced by the respondent (No, 1040 for e.g.) clearly shows that the goods had been sold (DE OCB Installation, Telephone Bhavan, Saifabad; Hyderabad in the case of No. 1040) before their sales. The cost of the machine and transport charges are also separately shown. Such invoicing makes it clear that the goods had been sold prior to their transport. In such a situation, the

Revenue is not justified in contending that place of removal is the place of the purchaser. The Commissioner (Appeals)'s order cannot be faulted at all. The present appeals lack completely in any merit. They fail and are rejected. The respondents shall be entitled to consequential relief.