Krupa Pharmaceuticals and Gopal Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-26-2004

Reported in : (2004)(94)ECC109

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

Appellant : Krupa Pharmaceuticals and Gopal

Respondent : Cce

Judgement :

1. Appellant Gopal Das Visram & Co. is a manufacturer of medicine. It manufactured some medicines for M/s. Glenmark Pharma Ltd. In some cases, order was directly placed by M/s. Glenmark Pharma Ltd. in the remaining cases through Krupa Pharmaceuticals. Excise duty was discharged on the goods so manufactured against job orders by treating sale prices to M/s. Glenmark Pharma Ltd. as assessable values, whether that was the sale price of the appellant manufacturer himself or Krupa Pharmaceuticals through whom the order was placed on the appellant. The impugned order proceeds to demand differential duty based on a finding that the assessable (sic, assessable value) should be the price at which the buyer (Glenmark Pharma Ltd.) sold the goods.

2. Appellant's contention is that the sale price of the buyer has no relevance for determination of the assessable value of the goods manufactured by the party, unless special circumstances mentioned in the valuation provision is attracted. That provision (manufacturer and buyer being related parties) admittedly, did not

exist in the present case. Learned Counsel has taken us through the adjudicating authority's order to show that he has clearly noted in the impugned order that the appellant manufacturer. Gopal Das Visram & Co. and M/s. Glenmark Pharma Ltd. are not related parties. It is his contention that, in such a case there was no reason to reject the sale prices of the manufacturer for the purpose of assessment of the goods. He referred in this connection to the decision of the Apex Court in the case of Ujagar Prints and submitted that for the assessment of goods produced on job work basis, assessable value must be worked out based on the cost of production and manufacturing profit of the manufacturer and not on the sale price of buyer who marketed the goods.

3. We have perused the record and heard the learned SDR also. The impugned order is clearly contrary to the facts of the case and settled law. Once the buyer and the seller are not related, there is no justification under the law for taking the buyer's price for the purpose of assessment of manufactured goods. The impugned order is not sustainable. The same is set aside and the appeals are allowed.