Bwl Limited Vs. Commissioner of Central Excise

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SooperKanoon Citation : sooperkanoon.com/34993

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Apr-20-2004

Reported in : (2004)(168)ELT458TriDel

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

Appellant : Bwl Limited

Respondent : Commissioner of Central Excise

Judgement :

1. The refund claims in these two appeals are in relation to goods supplied to BSNL. The refund claims were rejected on the ground that the reduction in prices made by BSNL was on account of liquidated damages and that the assessee failed to produce evidence proving that the higher amounts of duty initially paid at the time of removal of the goods had not been fully passed on to the buyer of the goods.

2. When the appeals came up for hearing today, none is present for the appellants. They have made a request that the appeals may be decided on merits. Accordingly, we heard the learned SDR and are passing this order.

3. It is clear from the price finalisation letters of BSNL that the original prices were provisional and subsequently on finalisation, the prices were fixed at lower rate per Km. Thus, the finding that the lower prices were on account of liquidated damages etc. is contrary to the facts. There is also no basis to the finding that the appellants

might have passed on the higher duty liability to the buyer. The records show that the purchase price of BSNL was an all inclusive prices i.e. inclusive of Central Excise duty also. Therefore, on account of reduction of an all-inclusive price, the duty amount that the appellant could claim from the buyer also remained reduced.

4. In view of what has been stated above, we allow the appeals with consequential relief, to the appellants. The refund amounts shall be paid to the appellant within a period not exceeding four weeks from the date of receipt of a copy of this order.