

**Executive Engineer, Mpseb Vs. Cce**

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**SooperKanoon Citation : [sooperkanoon.com/37353](http://sooperkanoon.com/37353)**

**Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi**

**Decided On : Dec-13-2004**

**Judge : S Kang, Vice, N T C.N.B.**

**Appellant : Executive Engineer, Mpseb**

**Respondent : Cce**

**Judgement :**

2. Appellant filed this appeal against the order in appeal passed by the Commissioner (Appeals). In the impugned order it is held that the fabrication by cutting and punching of holes in angles and duty paid channels transmission towers amounts to manufacture and 10% notional profit is to be added in the cost of production.

3. We find that issue in respect manufacture is already covered by the decision of the Tribunal in the case of additional Supdt., Engineer v.CCE, Bhopal vide final order of A/379/03-NB-C dated 16.7.2003 where the tribunal held that the activity undertaken by the appellant does not amount to manufacture. In respect of the addition of 10% profit, the Hon'ble Supreme Court in the case of PCC Pole Factory v. CCE-2002 (158) ELT 429 held that in case of captive consumption of the goods fabricated by the Electricity Board which are used for lines and transmission of electric energy, the addition of 10% notional profit is not sustainable in view of the above decision of the Tribunal and the Hon'ble Supreme Court. The impugned order is set aside and the appeal is allowed.