

Lml Ltd. Vs. Cce

Lml Ltd. Vs. Cce

SooperKanoon Citation : sooperkanoon.com/37820

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-20-2005

Reported in : (2005)(100)ECC339

Judge : S Kang, Vice, M T K.C.

Appellant : Lml Ltd.

Respondent : Cce

Judgement :

1. Heard both sides. The appellants filed this appeal against the Order-in-Appeal passed by the Commissioner of Central Excise (Appeals), Kanpur. In this case, the demand was confirmed in respect of Voltage Regulars and Blinkers manufactured in Industrial Electronic Division and the same were cleared to their Scooter Division. The contention of the Revenue is that prior to March 1986, the appellants were clearing the goods at a higher price whereas after March 1986, the prices were reduced drastically. The Revenue wants to assess these Voltage Regulars and Blinkers at the price prevalent prior to March 1986. The contention of the appellants is that they were manufacturing these items in Industrial Electronic Division and were clearing to their own Scooter Division. The contention of the appellants is that prior to March 1986, these items were manufactured out of the imported parts by paying higher customs duty and after March 1986, they started manufacturing these items out of the locally manufactured parts. Therefore, the prices were lower after March 1986. The appellants also contended that they were clearing Voltage Regulars and Blinkers to the independent buyers

i.e. Vespa Car Company at the same price on which the same were cleared to their own Scooter Division. Therefore, there is no suppression of the prices of the goods. The contention of the Revenue is that prior to March 1986, the appellants were clearing the same goods on a higher price and the prices were lowered down after March 1986 when the exemption was withdrawn. Therefore, the goods were rightly assessed on the price prevalent prior to March 1986.

2. In this case, the appellants were clearing Voltage Regulars and Blinkers to their Scooter Division by filing a Price List. The appellants were clearing the same goods to the independent buyers i.e.

Vespa Car Company. These facts are not disputed by the Revenue. The price of the goods is the same on which the goods were cleared to Vespa Car Company who is an independent buyer and not related to the appellants.

3. In these circumstances, we find that it cannot be said that the appellants cleared the goods to their own unit by suppressing the price of the goods to evade payment of duty. In view of the above discussion, the impugned order is set aside and the appeal is allowed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com