Cce Vs. Ubha Instruments Pvt. Ltd.

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SooperKanoon Citation : sooperkanoon.com/38352

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-04-2005

Reported in : (2005)(185)ELT80Tri(Mum.)bai

Judge : J Balasundaram, Vice, A M Moheb

Appellant : Cce

Respondent : Ubha Instruments Pvt. Ltd.

Judgement :

1. The Revenue is in appeal against the orders of the Commissioner of Central Excise (Appeals), who has held that the discount ranging from 5% to 27% given by the respondents, who are the manufacturers of apparatus for measuring and checking electrical quantities and transformers and supplying the same to the dealers, is permissible in law. According to the Revenue, the varying rates of discounts were negotiated on telephone and over the counter and it cannot be said that the terms of discounts were known to the buyers in the wholesale trade prior to removal of the goods. The Revenue accepts that upto 10% discount is normal and therefore challenges allowing discount in excess of 10% to the dealers.

2. None appeared for the respondent in spite of notice. We have heard Ld. SDR for the appellant. We find that the varying discount allowed should be known and understood prior to removal of goods and subsequent discounts negotiated over the telephone or across the counter cannot be known prior to removal of goods.

Therefore, they are not permissible and we accept the Revenue's contention in this regard and set aside the discount given in excess of 10% and allow the appeals.