S.R. Processors Vs. Commissioner of Central Excise

S.R. Processors Vs. Commissioner of Central Excise

SooperKanoon Citation : sooperkanoon.com/38481

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-15-2005

Reported in : (2005)(186)ELT320Tri(Mum.)bai

Judge : S T S.S., T Anjaneyulu

Appellant : S.R. Processors

Respondent : Commissioner of Central Excise

Judgement :

1. After hearing both sides and considering that the issue involved in this case is valuation of MMF being processed and cleared by the appellants and the period involved is Nov. 91 to Jan. 94 wherein 12.75% of the loading in values was proposed and for period Jan. 94 to Mar. 94 this loading proposed was 7.75% and for the period Apr. 94 to Dec. 95, it was proposed at 0.8% on account of Octroi Shrinkage Transportation interest of inventory and profit margin.

2. We find that the Commissioner (Appeals) has determined the valuation in this case vide order dated 20-3-97 for the period Jan. 91 to Oct. 91 and has not upheld the proposed loading of 12.75 % and that order in this assessee case has become final. There is no new material that could be shown to us, from the record, which would induce us to re-consider the re-fixation of the valuation in this assessee case. A Commissioner (Appeal's) order on valuation for the same assessee and on the same issue for earlier period will prevail for the subsequent periods and cannot be lightly brushed to be set aside. There can be no estoppel to revalue the

goods however, such re-valuation proposed to be made and has to be based on tangible reliable material which is not available in this case. It is found to be only on assumptions as could be seen from the orders of the original authority. The order of the Commissioner (Appeals) is delightfully silent on the presence of any additional material on record such an order cannot be upheld.3. Therefore, following the decision of the Apex Court in the case of Berger Paints India Ltd. - Para 4, we find no reason to differ with the earlier order, i.e. the Commissioner (Appeals) order dated 20-3-97 on valuation in this assessee's case. In view of the finding, we would allow this appeal. Ordered accordingly.