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

Amit Packaging Vs. Commissioner of C. Ex.

Amit Packaging Vs. Commissioner of C. Ex.

SooperKanoon Citation : sooperkanoon.com/39285

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-07-2005

Judge : S T S.S., T Anjaneyulu

Appellant : Amit Packaging

Respondent : Commissioner of C. Ex.

Judgement :

1. Appellants are an assessee in small scale, discharging duty on Plastic pouches made from printed plastic sheets in which engraved printing rollers are used. A dispute arose as regards valuation of the excisable goods. Revenue insisted on adding the sale price of rollers used for printing shown as purchased by the customers and added the lump sum of such sale accrues to duty under plastic rate applicable ignoring the costing and allocation per piece given by the assessee.

2. The assessee's contention of not adding the cost of the roller cannot be accepted since that issue is settled by the Larger Bench (see Mutual Industries Ltd. v. CCE . The amortized costs are to be added. If the Revenue is contesting the amortization arrived at by the assessee, they could have got the same determined under the provisions of Section 14A of the Central Excise Act, 1944 by deputing their Cost Accountant instead of resorting to the loading of full value of sale. We cannot uphold such loading.

3. Both sides agree that Cost Accounts/Auditors services could be availed in this case and matter could be redetermined. We agree. The department should depute

their own Cost Auditor to get the needful done since the assessee is a small scale unit and has pleaded the high costs of getting Cost Audits done on their own. After obtaining the report of the Assistant Director (Costs) of the Department, a copy of thereof be supplied to the assessee and values and duties be redetermined after hearing the assessee.

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