

AmstrIn Pharma Pvt. Ltd. and Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-28-2005

Judge : S Kang, Vice, C Nair

Appellant : AmstrIn Pharma Pvt. Ltd. and

Respondent : Cce

Judgement :

2. The dispute is about Central Excise Valuation of two medicines manufactured by M/s. Amstrin Pharma Pvt. Ltd. and supplied to M/s.

Abbott Laboratories (I) Limited. Up to 21.3.2000, the sale price of M/s. Abbott Laboratories (I) Limited was being adopted as the assessable value for payment of Central Excise duty. From that date, the manufacturer started assessing their medicines based on sale price to M/s. Abbott Laboratories (I) Limited. In the proceedings before the lower authorities, it has been concluded that sale price of M/s. Abbott Laboratories (I) Limited should continue to be the assessable value.

3. The submission of the appellant/assessee is that they were supplying the medicines to M/s. Abbott Laboratories (I) Limited against negotiated prices. It is being emphasized that since excise is one manufacture, assessable value can have relation only to the transaction value between the manufacturer and the first buyer and that sale price at later tiers of trade are of no concern for excise assessment.

4. The Revenue is also in appeal contending that the parties are related. This contention is being sought to be sought to be sustained on the basis that the sale price of the manufacturer is as determined by the buyer. It is also being pointed out that raw materials were being supplied by the buyer. Beyond this, there are no material facts relevant to that issue relationship.

5. In the present case, both the manufacturer and buyer are limited Companies. The sale price of the manufacturer is as agreed with the buyer. There is nothing on record to show that the sale price is a favored price or that it does not include all elements of cost of production. It is well settled that a fully commercial price rightly constitutes assessable value, even if entire goods are sold to one party. That the buyer supplies that the raw material, is also of no relevance, inasmuch as, in such a case of job work, assessable value is to be determined by adding the job charges to cost of material supplied by the buyer. It is not the Revenue's case here in that the sale price as agreed between the party does not include the full value of the material, going into production or the cost of production or manufacturing profit.

6. In the above facts of the case, the appellant/assessee was right in adopting its sale price to its buyer as assessable value and discharging duty liability on that basis. In the facts of the case, the sale price of the buyer was no relevance for the purpose of assessment to Central Excise duty. The appeal of the Revenue fails and is rejected. The appeals of the assessee succeed and are allowed with consequential relief, if any, to the appellants.

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