

Atul Painters Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-03-2005

Reported in : (2005)(188)ELT483Tri(Mum.)bai

Judge : J Balasundaram, Vice-, S T S.S.

Appellant : Atul Painters

Respondent : Commissioner of Central Excise

Judgement :

1. Appellants are job workers for M/s. Asian Paints and are discharging duty as per the price list of M/s. Asian Paints and claiming certain discounts from such Prices declared by M/s. Asian Paints. The dispute is on the claim of deduction on account of cash discounts and product discounts as offered by the trader, in this case i.e. M/s. Asian Paints.

2. After hearing both sides and considering the issue involved and the fact that it is an undisputed position that the appellants are job workers for M/s. Asian Paints and by no stretch of interpretation, the assessable values can be arrived at based on traders selling price. The determination of valuation has to be as per the formula approved by the Constitutional Bench's decision in the case of Ujjagar Prints ; this matter is required to be disposed of in the light of the settled position. If the traders selling price on which duty is being discharged, less certain claims, is not less than the assessable value to be worked out by the costing principles as per the case of Ujjagar Prints of the Apex Court, then assessable value, as arrived

at and duty discharged thereon, cannot be questioned by Revenue.

3. We therefore find no merits in going into the eligibility to various discounts and reliance on case laws placed before us, by both sides when we find that the costing formula, as per the Constitutional Bench's decision in Ujjagar Prints has not been breached and or duty is less/short paid as per that formula is not brought on record.

4. Revenue should bring out the fact of grant of the discount led to lowering the assessable value than as per the Ujjagar Prints formula.

That being not on record, the appeal is therefore allowed, after setting aside the impugned order.

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