

C.C.E. Vs. Himachal Futuristic

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-05-2005

Judge : S Kang, Vice-, N T C.N.B.

Appellant : C.C.E.

Respondent : Himachal Futuristic

Judgement :

1. The appeal of the Revenue is directed against the finding regarding valuation of telecommunication equipment supplied by the respondent to M/s. BSNL. The Commissioner held to the effect that sale price should constitute the assessable value. In passing that order, he was following the decision of this Tribunal in the case of Telephone Cables Ltd. v. CCE, Chandigarh. The present appeal has been filed on the following grounds :- (i) The deductions on account of late supply of goods are not admissible.

(ii) The relied upon decision in case of Telephone Cables Ltd., has not been accepted by the department.

2. When the matter came up for hearing, we have perused records and heard both sides. It is seen that the decision of the Tribunal in the case of Telephone Cables Ltd., (supra) has become final upon the dismissal of the appeal filed against it by the Hon'ble Supreme Court reported in 2004 (163) E.L.T. All. 7.

3. On the question of deductions on account of late supply, it is noticed that there were no such deductions. Under the agreement, supplies continued over a period of time and prices were provisional.

Final prices were to be in terms of the Purchase Order prevalent at the time of each supply. The Commissioner has ordered that assessments be finalized in terms of prices under the relevant Purchase Order. There is no error in the assessment order by the Commissioner, inasmuch as transaction values have been ordered to be taken as assessable value.

There is also no dispute that the transaction was, in any way, vitiated by consideration other than commercial.

4. In view of what is stated above, there is no merit in the present appeal of the Revenue. It is rejected.

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