

**Control and Switchgear Vs. Commissioner of Central Excise**

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**SooperKanoon Citation :** [sooperkanoon.com/42759](http://sooperkanoon.com/42759)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** May-30-2006

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

**Appellant :** Control and Switchgear

**Respondent :** Commissioner of Central Excise

**Judgement :**

1. Upon hearing the stay application, we find that the appeal itself is required to be disposed of. Accordingly, after dispensing with the requirement of pre-deposit, we take up the appeal.

2. The issue relates to the valuation of contactors overload relays, electrical timers and accessories thereof and motor starters manufactured by the appellant. The impugned order has held that valuation of these items was to be under Section 4A of the Central Excise Act, 1944, despite the fact that no MRP is written on the packages.

3. The submission made by the learned Counsel for the appellant is that this issue had come up before the Tribunal between the parties and the Tribunal had held in that valuation is to be done under Section 4. It is being pointed out that this order was followed by the Tribunal in a subsequent order being final order No.354/05-NB(A) . The learned Counsel also points out that these orders were placed before the Commissioner but the Commissioner has passed the impugned order without referring to them.

4. We have perused the record and heard both sides. We have also perused our earlier orders. The issue remains covered in favour of the appellant by our earlier orders. Accordingly, the impugned order which has taken a contrary view is set aside and the appeal is allowed with consequential relief, if any, to the appellant.

5. Before parting with the case, we are compelled to observe that the conduct of the Commissioner is wholly improper. When the matter remained covered between the parties by an order of the Tribunal and those orders were placed before him, he was required to follow those orders. Overlooking the orders of higher judicial authorities is not a course open to judicial authorities.

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