

Commissioner of C. Ex. Vs. Simtools Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Feb-13-2007

Judge : J Balasundaram, Vice-, A T K.K.

Appellant : Commissioner of C. Ex.

Respondent : Simtools Ltd.

Judgement :

1. The issue for determination in all these appeals arising out of a common impugned order is whether notional interests on advances are in the nature of additional consideration from customers and, therefore, liable to be included in the assessable value of goods manufactured and cleared by the respondents during the period in dispute.
2. We have heard learned SDR and learned Counsel for M/s. Jasco Engineering and perused records - none appears for the other respondents in spite of notice.
3. We note that there is no finding that the price has been influenced by the fact that interest free advances were given by the buyer to the manufacturer. No nexus has been established between the advances and the assessable value. The department has not discharged the burden of proving that the price of the goods was depressed as a result of the receipt of interest free advances. In these circumstances, the ratio of the Apex Court's judgment in CCE, Mumbai v. ISPL Industries Ltd. , holding that no presumption can be drawn by the mere fact of interest free advance by buyer to the manufacturer and that the burden lies upon

the Revenue to prove that such advance has influenced the price, is applicable; on all fours to the facts of the present cases and following the same, we uphold the impugned order and reject the appeals and also reject the prayer of the Revenue for remand of the case to examine whether advances received were used as working capital and are, therefore, required to be included in the assessable value, for the reason that there is no material on record to bring out that advances received were so used.

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