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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-26-1996

Reported in : (1998)(101)ELT480TriDel

Appellant : Peico Electronics and

Respondent : Collr. of C. Ex.

Judgement :

1. This is an appeal filed by M/s. Peico Electronics & Electricals Ltd. (hereinafter referred to as 'Peico') being aggrieved with the order-in-appeal, dated 11-3-1985 passed by the Collector of Central Excise (Appeals), Calcutta.

2. The matter relates to the inclusion of the cost of Stylus while clearing gramophones/record players which fitted with the Pick Up Heads. In the Pick Up Heads the Stylus is fitted. The appellants had contended that when gramophones/record players are cleared from the factory, the Stylus is cleared separately and is not fitted in the Pick Up Heads and that it is only in their service centre that the Stylus cleared from the factory along with the gramophones/record players (duly fitted with Pick Up Heads) is actually fitted in the Pick Up Heads. The Collector of Central Excise (Appeals) had observed that Stylus is cleared from the factory and that it is an essential part of the gramophones/record players and that the record players/gramophones could not work without the Stylus. He held that the cost of the Stylus was indubitable in the assessable value of gramophones/record players. He further observed that the price of the record players included the price of the Stylus.

3. The matter was posted for hearing on 26-3-1996 when no one appeared for the appellants. The notice for today's hearing had been sent to the appellants on 23-2-1996. There is no response. As the matter is very old, the price lists involved are of the year 1975, we are proceeding to deal with the case on merits after hearing Shri Vijay Singh, learned SDR, who is present for the respondents.

4. Shri Vijay Singh, learned SDR, stated that the Stylus was cleared along with gramophone/record player. In the gramophones/record players, the Pick Up Head is an essential component and that the Pick Up Head cannot serve any purpose without the Stylus/Needle. He further stated that the fact that these were bought out item will have no effect on the assessable value of the finished product, when the bought out item was an essential part of the finished product, was cleared from the manufacturing factory along with other parts of the finished products and its value was included in the value of the finished product.

Referring to the earlier decision of the Collector of Central Excise, (Appeals), dated 9-6-1981, the learned SDR stated that the Collector had already stated that the decision in that case was not correct.

5. We have carefully considered the matter. The appellants have stated that the Stylus were cleared from the factory. They were also clearing Pick Up Heads. While determining the assessable value of the Pick Up Heads, they were not including the price of Stylus, although Pick Up Head cannot work without the Stylus which is akin to gramophone needle.

They have contended that while clearing from the factory of manufacturer, the Pick Up Heads were cleared along with Stylus, but the Stylus was not inserted/fitted in the Pick Up Head. According to them, Stylus are purchased from outside and is cleared from the factory but are not inserted in the Pick Up Head. The Collector of Central Excise (Appeals) had stated that Stylus was an essential part of the gramophones and that the argument that the Stylus being purchased from the open market must be assumed to be duty paid and hence there would be double levy, had no merit. He had stated that there are many excisable commodities in which an element or component had already paid excise duty but when the finished product is cleared, the excise duty had to be paid on the value of the

finished products.

6. The assessable value in terms of Section 4 of Central Excises and Salt Act, 1944 had to be arrived at on the basis of the normal price of the goods when cleared from the factory. In this case, the goods cleared were gramophones/record players/Pick Up Heads. The Stylus was an essential item for the Pick Up Head which in turn was an essential component of the gramophones/record players. There is no doubt that the cost of the bought out items had to be included in the value of the finished product, if such bought out items are part of the finished product and the finished product as such is cleared from the factory.

In the present case, in the Memo of Appeal the appellants have admitted that the Stylus were cleared from the factory along with the Pick Up Heads. We are not concerned when the Stylus were purchased from outside, did not enter into the factory of manufacturer but they have disposed of after purchase from the open market by the service centres of the appellants' company. We are only concerned when Stylus is cleared from the factory. As the Pick Up Heads cannot work without the Stylus, the Stylus is an essential part of the Pick Up Head. The fact that the Stylus was packed separately will have no bearing on the assessment of the Pick Up Head when such head is cleared from the factory along with Stylus.

7. In the earlier order of Collector of Central Excise (Appeals) i.e.

dated 9-6-1981, it has been specifically stated that the Pick Up Heads were cleared without Stylus. In the present proceedings, we find that the Pick Up Heads were cleared with the Stylus, although the Stylus was not actually inserted in the Pick Up Heads when the two were cleared from the factory.

8. In the circumstances, we find no infirmity in the impugned order-in-appeal, dated 11-3-1985 of the learned Collector of Central Excise (Appeals), Calcutta. Accordingly, there is no merit in this appeal and the same is rejected.

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