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Associated Soapstone Vs. Collector of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-13-1996

Reported in : (2002)(146)ELT324TriDel

Appellant : Associated Soapstone

Respondent : Collector of Central Excise

Judgement :

1. This appeal arises from the Order-in-Appeal dt. 11-3-1986 passed by the Collector (Appeals), New Delhi. The question that arises for consideration is as to whether "Dharmada" charged by the appellants on the goods is required to be added to the assessable value. Both the authorities have held that the "Dharmada" recovered by them for charitable purpose and not retained by them is required to be added to the assessable value. In this connection the Learned Consultant brought to our notice the judgment rendered by the Tribunal in the case of Mohan and Co. v. Collector of Central Excise, as reported in 1987 (30) E.L.T. 624 (T), wherein the Tribunal has taken a view in the light of the Supreme Court's judgment rendered in the case of Commissioner of Income Tax v. Bijili Cotton Mills Pvt. Ltd. (1979 ITR. 116) that "Dharmada" charity receipts charged by the assessee from the customers are meant for charitable purpose and hence it does not form part of the normal price so as to be chargeable the duty under Section 4 of the Central Excises and Salt Act, 1944.

2. The Learned DR submitted that although this judgment is there on record but yet it is not known as to whether this "Dharmada" is being utilised for the purpose

for which it is deducted and therefore, it is required to be ascertained.

3. We have carefully considered the submissions made by both the sides and have perused the order. There is no dispute with regard to recovery of Dharmada by the assessee and its utilisation. The only question which was there before the lower authorities was with regard to its includibility on the assessable value. On this aspect of the matter, the Tribunal has already decided the issue in favour of the assessee to hold that charity (Dharmada receipt) charged by the assessee from their customers meant for charitable purposes did not form part of the normal price so as to be chargeable to duty. In this regard the Tribunal has also noted the judgment of the Hon'ble Supreme Court in the case of Bijili Cotton Mills Pvt. Ltd. 4. In view of the judgment, we do not find any reason to differ from it and applying the ratio, we set aside the impugned order and allow the appeal.

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