Machinefabrik Polygraph (India) Vs. Collector of C. Ex.

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SooperKanoon Citation : sooperkanoon.com/9944

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Aug-30-1996

Appellant : Machinefabrik Polygraph (India)

Respondent : Collector of C. Ex.

Judgement :
1. Appellant is absent in spite of notice of hearing. We have heard Shri A.K. Agarwal, SDR and perused the papers.

2. Appellant is engaged in the manufacture of printing machines and allied goods which are sold to customers on payment of prices fixed by the appellants. In regard to some of the sales, the invoice showed that besides the price of machine, the appellants had collected training charges, i.e. charges for training the employees of the customer. On coming to know of this circumstance, notice was issued to the appellants to show cause why the differential duty for the period from 1-4-1978 to 31-5-1983 on certain charges including the training charges should not be demanded. The appellants resisted the notice. The Assistant Collector held that training charges cannot be added to the assessable value but granted deduction for certain other charges. In appeal, the Collector (Appeals) confirmed the order. Hence, the present appeal.

"As regards the training charges, no doubt they are in the nature of post manufacturing charges but the question is whether the same could be allowed as a deduction from the price.... Therefore, we must fall back on Notification No. 120/75, dated 30-4-1975. The notification clearly stated that only duty in excess of invoice price is exempt and therefore, as long as training charges are included in the invoice value, they are covered under Notification No. 120/75, dated 30-4-1975 and are liable to be added to the assessable value for the purposes of levy of central excise duty." 4. The controversy arises in the light of the Notification No. 120/75 according to which in the case of manufacturer who opts for the benefit of the notification and subject to the conditions stipulated therein, so much of the duty of excise as is in excess of the duty calculated on the basis of the invoice price (excluding duty and local taxes, if any, included in such price) charged by the manufacturer for the sale of such goods is exempted. Thus in such cases the duty shall be calculated on the invoice price charged by the manufacturer for the sale of such goods. Reference to invoice price does not mean that whatever amount is shown in the invoice is the invoice price. The amounts shown in the invoice price as charged by the manufacturer for the sale of such goods is the invoice price. There is no dispute that the invoice in these cases shows separately the price charged for the sale of goods and the training charges due to the manufacturer. Of these amounts, it is only the price charged for the sale of the goods which is to be regarded as invoice price. The charges for training included in the invoice do not become invoice price unless the Department is able to show that a part of the invoice price was suppressed and recovered in the guise of training charges. The Department has no case that a part of the invoice price was collected in the guise of training charges. Therefore, the training charges which are admittedly charges for the training to be given in future by the manufacturer to the employees of the buyer cannot be regarded as part of the invoice price.

5. We set aside the impugned orders holding that the training charges collected are not to be included in the assessable value. The appeal is allowed.