

Shiva Glass Works

v.

Collector Of Central Excise

(Supreme Court Of India)

HON'BLE JUSTICE RANGANATH MISRA HON'BLE JUSTICE M. N.
VENKATACHALIAH

Civil Appeal No. 980 of 1985 | 27-11-1987

This appeal is directed against the order dated 29 September, 1984 of the Customs, Excise and Gold (Control) Appellate Tribunal, New Delhi. There are only two points in this appeal. The first relates to the charges for packing of the glassware, including glass bottles, marketed by the appellant. The other relates to the cost of transportation recovered by the appellant as part of the price. The appellant claimed that for the purpose of computing the excise duty it was entitled to a deduction of the packing charges and transportation charges from the price charged at the factory gate. The Appellate Tribunal has held against the appellant on both claims.

2. So far as the packing charges are concerned, it seems apparent, upon the finding of the Appellate Tribunal, that the packing applied to the marketed product was that employed in the ordinary course of sale by delivery at the factory gate. That being so, it is clear that no deduction can be claimed in respect of packing charges.

3. As regards the transportation charges, it is clear to our mind that the transportation charges have been levied for the journey from the factory gate. They have been equalised and applied irrespective of the distance covered by the marketed goods from the factory gate and also without regard to the weight of the goods. Equalisation of freight should make no difference to the claim for deduction so long as the transportation charges are imposed in respect of the journey of the goods beyond the factory gate. It has, however, been pointed out by the Appellate Tribunal that the appellant has not disclosed to the authorities what precisely were the particulars of the transportation charges which were included in the price of the goods. That is a matter which may engage the Appellate Tribunal now.

4.The appeal is allowed insofar only that the order of the Appellate Tribunal rejecting the claim of the appellant in respect of transportation charges is set aside and the case is remanded to the Appellate Tribunal for re-consideration of the claim in the light of the observations made above after permitting an opportunity to the appellant to produce its books and other documents before it in support of the claim.

5.The appeal is disposed of accordingly. There is no order as to costs.