

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4467 OF 1995@@
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Azad Foods Pvt. Ltd. APPELLANT

-Versus-

Collector of Central Excise, Bangalore. RESPONDENT

WITH CIVIL APPEAL NO.4468/1995@@
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The question involved in these apples is what should be assessable value of the biscuits manufactured by the appellants for the purpose of levy of central excise duty. The tribunal by the impugned order following its earlier judgment in the case of Pawan Biscuits Co. Pvt. Ltd. Vs. CCE 91(53)ELT (Tribunal) dismissed the appeals of the appellants and held that the valuation for the purpose of levy of duty should be made on the basis of the sale price recovered by Britannia Biscuits for whom the appellants manufactured the biscuits. Thus, it is seen that the foundation of the impugned judgment is the earlier judgment of the tribunal in the case of Pawan Biscuit (supra). It is to be noticed that this judgment of the tribunal in Pawan Biscuits has since been overruled by this Court in the case reported in 2000(6) SCC 489 which was the judgment of this Court in the appeal filed against the judgment of the tribunal in the said Biscuit's case. The tribunal, on facts, has noticed that the contract between the parties involved in Pawan Biscuits is identical with the contracts entered into by the appellants with Britannia Biscuits in the instant appeals. Therefore, we are of the opinion by applying the principles laid down by this Court in the case of Pawan Biscuits Co. Pvt. Ltd. Vs. Collector of Central Excise, Patna (2000 (6) SCC 489) these appeals are liable to be allowed, accordingly, theses appeals are allowed and the judgment of the tribunal is set aside.

Excise authorities will be at liberty to bear in mind the amount of excise duty afresh in accordance with law.

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.....J.
(N. SANTOSH HEGDE)

