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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 4386 OF 2008

COMMISSIONER OF CENTRAL EXCISE, THANE

... Ap

pellant

VERSUS

M/S. ESSEL PROPACK LTD.

... Re

spondent

O R D E R

In this appeal, we are concerned with the valuation of goods on which excise duty was payable by the respondent-assessee. The period in question is October, 1997, to June, 2000. The assessee had filed the returns on the basis of Rule 6(b)(ii) of the Central Excise (Valuation) Rules, 1975 (hereinafter referred to as 'Rules'). The Tribunal in the first round of litigation had decided that it is not Rule 6(b)(ii) but Rule 6(b)(i) that would be applicable.

Under Rule 6(b)(i) of the Rules, the price of the comparable goods had to be adopted for the purpose of fixing the valuation. The Revenue took into consideration sales made by the assessee to its customer known as M/s. Courtaulds Packaging (India) Pvt. Ltd., Goa, and passed orders dated 30.12.1998 on that basis. However, it transpires that sale of goods to the said Goan company by the assessee was only up to June, 1997. Thereafter, no supplies were made

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and,
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NIDHI AHUJA
Date: 2016.07.25
16:54:26 IST
Reason:

therefore, for the period in question, i.e., October, 1997,

C.A. No. 4386/ 2008

to June, 2000, the price on which the sales were made to Goan

company could not have been the basis.

The Tribunal, on the

other hand, found that during this period, there was a solitary sale transaction which was at Rs.100 per k.g. in December, 1997.

Insofar as the period in question, i.e., October, 1997, to June, 2000, is concerned, there is only captive consumption of goods. In these circumstances, since that was the only comparable price available with the Tribunal, we find nothing wrong in adopting that solitary sale as the basis for arriving at the valuation for the period in question as well.

The appeal, therefore, stands dismissed.

....., J.
[A.K. SIKRI]

....., J.
[ROHINTON FALI NARIMAN]

New Delhi;
July 22, 2016.

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ITEM NO.302

COURT NO.11

SECTION III

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No. 4386/2008

COMMISSIONER OF CENTRAL EXCISE, THANE

Appellant(s)

VERSUS

M/S.ESSEL PROPACK LTD.

Respondent(s)

Date : 22/07/2016 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Appellant(s)

Mr. K. Radhakrishnan, Sr. Adv.
Ms. Binu Tamta, Adv.
Ms. Nisha Bagchi, Adv.
Mr. Rajiv Singh, Adv.
Mr. B. Krishna Prasad, Adv.
Ms. Pooja Sharma, Adv.

For Respondent(s)

Mr. V. Lakshmikumaran, Adv.
Mr. S. Vasudevan, Adv.

Mr. M. P. Devanath, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal stands dismissed in terms of the signed
order.

(Nidhi Ahuja)
Court Master

(Tapan Kr. Chakraborty)
Court Master