

Customs, Excise and Gold Tribunal - Delhi

Collector Of Central Excise vs Panchmukhi Engg. Works And Anr. on 29 July, 1991

Equivalent citations: 1992 (41) ECR 457 Tri Delhi

Bench: J T P.C., G B Deva

ORDER P.C. Jain, Member (T)

1. Since a common issue is involved in all the three matters, a common order is being passed.
2. The question involved in these cases is whether the 'Dharmada' charged by the assessees, i.e. respondents herein should be included in the assessable value under Section 4 of the Central Excises & Salt Act, 1944 or not.
3. Shri V.K. Jain, learned SDR for the appellant-Collector has urged that 'Dharmada' is compulsorily paid by the customers of the assessees, and, therefore, it must form part of the assessable value under Section 4. There is no option that the customers are not to pay Dharmada. In that view, he submits that Dharmada would form part of the assessable value of the goods.
4. Rebutting the arguments of the learned SDR, Shri V. Lakshmi Kumaran, learned Advocate for the Respondents has urged that this is a matter covered by the decision of the Tribunal in the case of Mohan & Co. v. Collector of Central Excise, Madras, which in turn is based on Supreme Court's judgment in the case of CIT v. Bijli Cotton Mills Private Limited . He submits that compulsory payment of Dharmada has been very pointedly dealt with by the Supreme Court in the aforesaid judgment of Bijli Cotton Mills. After considering the arguments of the Department in the earlier case of M/s. Mohan & Co., the Tribunal had passed the considered decision. The same should be followed now. He, therefore urges that the appeals of the Collector deserve to be dismissed in view of the earlier judgment of the Tribunal.
5. We have carefully considered the pleas advanced on both sides. Having regard to the judgment of the Tribunal in the case of M/s. Mohan & Co. mentioned supra, we do not find any merit in the plea of the learned, SDR for the Appellant-Collector. Accordingly, all the three appeals are dismissed. Cross objections dismissed as not maintainable.

(Dictated and pronounced in open court)