

Supreme Court of India

Collector Of Central Excise, ... vs Abex Rubber Co. on 4 December, 1997

Equivalent citations: 1998 (99) ELT 489 SC, JT 1998 (7) SC 240

Bench: S Sen, M Srinivasan

ORDER

1. The dispute in this case is whether the sale of thread rubber and rubber compounds by the assessee to the consumers was retail or wholesale. There is no dispute that the assessee was selling directly to the consumers. It has been contended on behalf of the Revenue that the sale to a single consumer can also be a wholesale sale if the sale is of a large quantity of goods. There is no dispute that bulk sale to a single consumer may constitute wholesale sale and the price for such sales should be taken as the normal price basis for determining the assessable value of the goods. But in this case there is no finding that the sale was in bulk to any particular consumer.
2. It has been argued on behalf of the Revenue that the sales were to industrial consumers. Therefore, it should be inferred that the sales were in bulk and consequently the price paid by the consumers was wholesale price.
3. We are unable to uphold this contention. There is no finding by the Tribunal that the assessee made only bulk sales at wholesale price to industrial consumers. There is no presumption of law that a sale to industrial concern must be in bulk and the price charged must be wholesale price. Any such inference will have to be drawn from the facts of the case. The Tribunal has examined the facts and has come to a different conclusion. Having regard to the findings made by the Tribunal, we are unable to hold that any error of law or fact has been committed by the Tribunal. The appeal is, therefore, dismissed. There will be no order as to costs.