(2015) 09 SC CK 0011

In the Supreme Court Of India

Case No : Civil Appeal No. 3558 of 2006.

Commissioner of C. Ex., Vadodara - Appellant @HASH Viacom Electronics P. Ltd.

Date of Decision : 01-09-2015

Acts Referred:

Citation : (2015) 323 ELT 667

Hon'ble Judges : A.K. Sikri and Rohinton Fali Nariman, JJ.

Bench : Division Bench

Advocate : S/Shri. Jaideep Gupta, Sr. Advocate, Rupesh Kumar, Ritesh Kumar, Ms. Sunita Rani Singh, Jitin Singh and B. Krishna Prasad, Advocates, for the Appellant; S/Shri. M.P. Devanath, Vivek Sharma, Chranya L., Hemant Bajaj, Anandh K., Aditya Bhattacharya and R. Ramchandran, Advocates, for the Respondent

Final Decision : Allowed

Judgement

1. This appeal arises from the order dated 12-12-2005 passed by the Customs, Excise & Service Tax Appellate Tribunal (hereinafter referred to as "CESTAT") [2006 (197) E.L.T. 76 (Tri.-Del.)]. Though various issues are decided by the CESTAT vide the aforesaid impugned order in favour of the assessee herein, in the present appeal preferred by the Revenue notice was issued limited to the question as to whether MRP based assessment applies to accessories. Therefore, we are required to examine only this aspect in the present appeal.

2. In the show cause notice which was issued to the respondent, it was alleged that during the course of investigation it was noticed that AKAI brand colour TVS were being sold with audio output viz. 300 PMPO woofer. The O.M. in respect of 25" and 29" colour TV clearly show woofer as integral part of colour TV. During search conducted subsequently, it was noticed that the AKAI brand colour TVs of these picture tube sizes contain special circuits for woofer audio output. It was on that basis in the show cause notice the Revenue took the position that the said woofers were integral part of the colour TV and, therefore, MRP method based assessment would be applicable thereto. In the reply filed by the assessee

it was explained that woofers were not the integral part of the colour TV and they could function independently of their own and even TV could be operated without woofers. This contention of the respondent was accepted by the Adjudicating Authority and it resulted in Order-of-Original passed by the Adjudicating Authority, thereby dropping show cause notice. The Tribunal has also accepted the aforesaid finding thereby dismissing the appeal of the Revenue in the following manner :

"12. Another grievance raised by the Revenue is in regard to the price of woofer. The Commissioner has found that, as a matter of fact, woofer is not a part of Television set and that they are being cleared and sold separately. This was the case, prior to introduction of assessment under Section 4A (MRP). The MRP based assessment is for television set and not for its accessories. The MRP based assessment is for Television set and not for its accessories. Those goods correctly merit valuation under Section 4 of the Central Excise Act. Therefore, this grievance of the revenue is not sustainable."

3. The aforesaid findings are pure findings of fact which were rendered in favour of the assessee. We do not find any merit in this appeal. The appeal is accordingly dismissed.

