(2004) 02 SC CK 0092

In the Supreme Court Of India

Case No : 1779 Of 1998

Khaitan Electricals Ltd. APPELLANT

Vs

Collector of C. Ex., New Delhi RESPONDENT

Date of Decision : 11-02-2004

Acts Referred:
Central Excises and Salt Act, 1944 — Section 11A

Citation : (2004) 113 ECR 319 : (2004) 165 ELT 134 : (2003) 7 SCC 172

Hon'ble Judges : S. Rajendra Babu, J;G. P. Mathur, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Two questions arise for our consideration in this case whether the assessable value for purposes of excise duty would include the value of fans as well as regulators. The case put forth by the appellants is that regulators are not part of the fans and the value thereof could not be included for purposes of excise duty. The second question raised is that the duty payable in the present case relates to the period from 1-1-1985 to 20-9-1986 and a show cause notice in this behalf was issued u/s 11A of the Central Excises & Salt Act, 1944 on 7-9-1989 beyond the period of six months and hence barred by limitation.

2. The answer to the first question is that the matter is covered by a decision of this Court Jaya Engineering v. Government of India -1997 (90) E.L.T. 19 against the appellants. Therefore, we hold against the appellants on this aspect of the matter.

3. So far as the question of bar of limitation in the issuance of show cause notice is concerned, the plea raised by the appellants is that there was uncertainty in law in regard to the question whether the value of regulators should be included in the value of fans for purposes of excise duty or not; that the appellants themselves had included the value of the regulators upto the period 1984; that it is only in December, 1984 it filed revised price lists expressly stating that the

goods manufactured by them are ceiling fans complete, but excluding regulators having been purchased from other manufacturers. The appellants have produced before us a set of price lists which, however, had not been produced either before the original authority or before the Tribunal.

4. In the circumstances, we think it is appropriate for the Tribunal to examine the matter whether the statement made by the appellants in the price lists are correct and what the effect thereof would be. In the circumstances, we set aside the order made by the Tribunal and remit the matter for examination only on the question of limitation and penalty. The appeal is partly allowed to the extent stated above.