(1999) 11 SC CK 0021

In the Supreme Court Of India

Case No : Civil Appeal No. 3602 Of 1997

National Radio and Electronics Co. Ltd. APPELLANT

Vs

Collector of Central Excise, Aurangabad RESPONDENT

Date of Decision : 03-11-1999

Acts Referred:

Central Excises and Salt Act, 1944 — Section 11A

Citation : (2000) ECR 757 : (2000) 115 ELT 35 : (2000) 10 SCC 287

Hon'ble Judges : S. P. Bharucha, J;A. P. Misra, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. We restrict ourselves, in deciding this appeal, to the question of limitation. On 16th April, 1987, a show cause notice was issued to the appellants. It covered a larger period but was made absolute for the period 16th April, 1982 to 31st January, 1985. The show cause notice alleged that the appellants had suppressed the fact that they were entitled to collect charges for maintenance services of the computers they sold during the warranty period thereof. It is an admitted fact that the contracts for the sales of the computers had been disclosed by the appellants. These contracts showed the entitlement of the appellants to collect charges for maintenance during the warranty period. An application of mind by the Excise authorities concerned would have revealed to them that the appellants were entitled to collect such charges. There was no suppression in this behalf by the appellants. The Excise authorities were, therefore, not entitled to invoke the larger period of limitation u/s 11A of the Central Excise Act to issue the show cause notice. The demand made by the show cause notice was beyond time and, accordingly, the order of the Tribunal confirming the demand made by the show cause notice must be quashed.

2. We have not gone into the question of whether or not the maintenance charges on computers form part of the assessable value thereof. We merely record the contention on behalf of the appellants that they do not, being covered

by the judgment of this Court in PSI Data Systems Ltd. v. Collector of Central Excise .

3. The appeal is allowed. The order under appeal is set aside.

4. No order as to costs.

