

PETITIONER:
UNION OF INDIA & ORS.

Vs.

RESPONDENT:
PUROLATOR INDIA LTD.

DATE OF JUDGMENT 02/05/1989

BENCH:
MUKHARJI, SABYASACHI (J)
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MUKHARJI, SABYASACHI (J)
RANGNATHAN, S.

CITATION:
1990 AIR 202 1989 SCR (2) 1023
1989 SCC (3) 181 JT 1989 (3) 11
1989 SCALE (1) 1186

ACT:

Central Excises and Salt Act, 1944. Sections 4(1)(a), 4(4)(c) Assessee--Manufacturing and selling filters in the brand name of customers--Excise duty--Assessment of.

HEADNOTE:

The respondent company, manufacturer of filters, was selling the goods to its customers under brand names. It declared its assessable value on the basis of the price at which it sold the goods. Show Cause Notices, requiring assessable value to be determined at the price the buyers of the respondent company sold the goods, issued to the respondent were challenged by it and quashed by the High Court. Hence this appeal by the Revenue.

Dismissing the appeal, this Court

HELD: 1. For the purposes of the excise duty, the market value of the goods of the respondent company was the price charged by it, and not the market value at which the buyers of the respondent company sold the goods. The High Court, therefore, rightly quashed the Show Cause Notices. [872C]

The Union of India & Ors. v. M/s Playworld Electronics Pvt. Ltd. & Anr., Civil Appeal No. 859 of 1988 (S.C.) decided on 2nd May, 1989, applied.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1491 (NN) of 1988.

From the Judgment and Order dated 30.5. 1986 of the Delhi High Court in W. No. 578 of 1981.

A. Subba Rao, P. Parmeshwaran and Mrs. Sushma Suri for the Appellants.

H.N. Salve, P.K. Ram and D.N. Misra for the Respondent.

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The Judgment of the Court was delivered by

SABYASACHI MUKHARJI, J. This is an appeal by special leave and is connected with Civil Appeal No. 859. This is an appeal from the judgment and order of the High Court of Delhi dated 30th May, 1986.

It appears that in October, 1975, Trade Notices were

issued on the basis of the directive of the Ministry of Finance to the effect that the owners of the brand name are to be treated as the manufacturers of the goods. In April, 1977, price list submitted by the respondent declaring the assessable value on the basis of the price at which the assessee-respondent sold the goods. Thereafter on 16th April, 1977, there was a letter written by respondent giving the list of the customers of the respondent and clarifying the terms and conditions on which the assessee sold the goods. On August 22, 1977, the appellants wrote a letter to the assessee-respondent seeking certain information, inter alia, to the effect whether the assessee and its buyers were related persons. A reply was given on 10th September, 1977 by the assessee to the aforesaid letter. First notice was issued asking the assessee to show cause as to why the assessable value be not determined at the price the buyers of the assessee sold the goods (instead of the price at which the assessee sold the goods to its buyers). There was a reply and the second show cause notice was issued on 28th January, 1981. These show cause notices were challenged and the High Court quashed the said notices. Aggrieved thereby, this appeal has been filed.

The respondent is a registered company carrying on the business of manufacturing and selling filters. Some of the goods are sold by the respondent to its customers under the respective brand names. The respondent filed a price list at which price the goods were sold to the customers.

In view of the principles indicated in the judgment in Civil Appeal No. 859 and the facts adduced before the High Court, the High Court's judgment cannot be interfered. The appeal, therefore, fails and is accordingly dismissed.

T.N.A.
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Appeal dismissed.