

Valuation (Central Excise) — MRP valuation not applicable to goods packed for industrial use

The Supreme Court Bench comprising Hon'ble Mr. Justice H.L. Dattu and Hon'ble Mr. Justice Chandramauli Kr. Prasad on 22-9-2011 **dismissed** the Civil Appeal Nos. 5447-5450 of 2005 filed by Union of India against the CESTAT Final Order Nos. 165-168/2005-NB(A), dated 1-2-2005 as reported in **2005 (183) E.L.T. 95 (Tribunal)** (*Controls & Switchgears Contractors Ltd. v. Commissioner*). While dismissing the appeal, the Supreme Court passed the following order :

In these Civil Appeals the revenue is questioning the correctness or otherwise of the orders dated 1-2-2005 passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi (for short 'CESTAT') in Appeal Nos. E/4651, 4652, 4653 & 3530/04-NB(A).

The CESTAT is the final finding of fact authority. It has come to the conclusion that the revenue has failed to demonstrate that the products in question are sold in retail. The revenue is not in a position to demonstrate before us that the finding of fact arrived at by the CESTAT is a perverse finding. In that view of the matter, we are of the opinion that the orders passed by the CESTAT do not suffer from any legal infirmity.

In view of the above, the Appeals deserve to be dismissed. Accordingly, they are dismissed.

Other questions of law raised in these Appeals are kept open to be agitated by the revenue in an appropriate case."

The Appellate Tribunal in its impugned order had held that goods were liable to be assessed under Section 4 of Central Excise Act, 1944 and not under Section 4A *ibid* since on each package there was specific mention that the goods were specially packed for exclusive use of industries as raw material and not intended to be displayed for sale at a retail outlet and there was no evidence produced by Revenue to show that the goods were meant for retail sale.

[Union of India v. Controls & Switchgears Contractors Ltd. - 2011 (274) E.L.T. A109 (S.C.)]