

A COMMISSIONER OF CENTRAL EXCISE, PUNE
v.
M/S. KRIPA CHEMICALS PVT. LTD.

4 NOVEMBER, 2004

B [ARIJIT PASAYAT AND C.K. THAKKER, JJ.]

Central Excise Rules, 1944:

C *Modvat—Cost of production—Held, excise duty on raw material, if modvatted is not to be included in determining cost of production of excisable products.*

Collector of Central Excise, Pune v. Daiichi Karkaria Limited, (1999) 112 ELT 353 SC, relied on.

D *Central Excise Act, 1944:*

Excisable product—Valuation—Job work—profit earned by job worker—Held, value of raw material, value of the job work done and the manufacturing profit and the expenses for the processing have to be taken into consideration.

E *Ujagar, Prints etc. etc. v. Union of India and Ors., (1989) 39 ELT 493 SC, relied on.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5000 of 1999.

F From the Judgment and Order dated 10.5.99 of the Central Excise Customs and Gold (Control) Appellate Tribunal, Bombay in A.No.E/1719/94-A in F.O.No. C-1/930/WZB/1999.

G Mohan Parasaran, Additional Solicitor General and B. Krishna Prasad with him for the Appellant.

C.N. Sree Kumar and Ms. M.L. Shyjatha for the Respondents.

The Judgment of the Court was delivered by

ARIJIT PASAYAT, J. Heard.

A

This appeal involves two issues. One of them relates to the calculation of cost of production and whether excise duty paid on raw material, if modvatted, is to be included in determining the cost of production of excisable products. This issue has been examined by this Court by a three Judge Bench in Collector of *Central Excise, Pune v. Daiichi Karkaria Limited* (1999) 112 353 SC and it was held that excise duty paid on raw material, if modvatted, is not to be included in determining the cost of production of excisable products. The other issue raised is the question as to whether profit earned by the job worker is to be included and to what extent? In the clarificatory order passed by this Court in *Ujagar Prints etc. etc. v. Union of India and Ors.*, (1989) 39 ELT 493 SC, it was explained by way of an illustration that the value of the raw material, the value of the job work done and the manufacturing profit and the expenses for the processing have to be taken into consideration. The determination of the excisable value shall be done on that basis. The appeal is, accordingly, disposed of.

B

C

D

R.P.

Appeal disposed of.