Birendra Prasad Vs. the Commissioner of Customs (Port) and anr.

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SooperKanoon Citation : sooperkanoon.com/1164429

Court : Kolkata

Decided On : Sep-17-2014

Judge : I. P. Mukerji

Appellant : Birendra Prasad

Respondent : The Commissioner of Customs (Port) and anr.

Judgement :

WP No.908 of 2014 IN THE HIGH COURT AT CALCUTTA CONSTITUTIONAL WRIT JURISDICTION ORIGINAL SIDE Birendra Prasad Versus The Commissioner of Customs (Port) & Anr.

Before: The Hon'ble Justice I.P.MUKERJ.Date: 17th September 2014 Appearance: Mr.Sudhir Kumar Mehta, Advocate for the petitioner Mr.R.Bharadwaj, Advocate Mr.K.K.

Maiti, Advocate for the respondents The Court: According to the writ petitioner, the goods which were imported by them on 16th July 2014 are classifiable under the heading 7204 of the Schedule of the Customs Tariff Act, 1975.

They are scrap materials derived from electrical transformeRs.The respondent-authorities identified the goods to be such in their inspection report made on the bill of entry at page 45 of the writ petition.

According to the respondent-authorities, in the bill of entry itself, being annexure - P4 at page 44 of the writ petition, the writ petitioner had described the goods as siliCo.electrical steel strips/scrap originated from old and used dismantled transformeRs.According to an order of the Central Government dated 12th March 2012 under Section 14 of the Bureau of Indian Standards Act, 1986, there is a prohibition regarding storage, sale, distribution etc.of goods mentioned in the schedule thereto unless they conform to the specified standards and bear the standard mark of the Bureau of Indian Standards on obtaining certification marks licence.

Scraps are not included in the schedule.

But old goods are covered by it.

According to the department, these goods are siliCo.strips and hence covered by this order.

According to the petitioner, they are scraps.

The writ petitioner, in my opinion, has come to this Court at a premature stage.

The authority should be allowed to properly classify the goods in question upon proper examination and enquiry and to proceed with the assessment under Section 17 of the Customs Act, 1962.

I order accordingly.

They shall do so by giving an opportunity of hearing to the petitioner when it would be open to the petitioner to urge all the points, which are urged in this writ application, before the concerned officer making the assessment.

The assessment order shall be a reasoned one.

The assessment will be completed as expeditiously as possible, preferably by 31st October 2014.

Nothing survives of this writ application.

It is disposed of accordingly.

Certified photocopy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(I.P.MUKERJI, J.) R.

Bose AR(CR)