

**Sail Vs. Collector of Customs**

**Sail Vs. Collector of Customs**

**SooperKanoon Citation :** [sooperkanoon.com/11693](http://sooperkanoon.com/11693)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Aug-13-1997

**Reported in :** (1998)(98)ELT694TriDel

**Appellant :** Sail

**Respondent :** Collector of Customs

**Judgement :**

1. In this appeal filed by M/s. Steel Authority of India Limited (SAIL), the issue for our consideration is whether the goods imported viz. Relays 230 Volts. D.C. upto 5 Amperes were eligible for concessional rate of basic customs duty under Notification No..

188/87-Cus., dated 29-4-1987 and of auxiliary duty under Notification No. 209/87-Cus., dated 12-5-1987. The Collector of Customs (Appeals) had taken a view that the benefit of concessional rate of duty under Notification No. 188/87-Cus. was available only to the goods used in the Electronic Industry while the goods imported were actually meant for industrial control for control of different electrical operation in the Skelp Mill in the Plant of the appellants.

2. Shri K.A. Siddiqui, Manager (Finance) appearing for the appellants submitted that the High Powered Committee on disputes in their Meeting held on 11-7-1997 had already allowed the appellants to pursue their appeal in the Tribunal. He referred to the Sl. No. 14 of the SUBJECT listed in the Minutes of the Meeting of the Committee on Disputes, which covered the present matter. Sl. No. 14 is as

under :- "14. Appeal No. N.A. against Order-in-Appeal No. Cal. Cus.-1522/88, dated 22-9-1988 passed by the Collector of Customs (Appeals), Calcutta regarding Higher rate of duty charged.

(Note No. SAIL/CUS/40 circulated by the Steel Authority of India Limited)." He also referred to the decision of the Committee on Disputes with regard to the Item Nos. 10,14 and 18 wherein it had been recorded as under :- "The Department of Revenue (CBEC) did not oppose the stand of Steel Authority of India and agreed to the matter being decided by the CEGAT. The Committee permitted Steel Authority of India to pursue the appeal in CEGAT; the Department of Revenue will concede the claims in the appeal." 3. Shri K.A. Siddiqui, Manager (Finance) further submitted that there is no dispute that the goods imported were designed for the goods Relays 230 Volts D.C. and 5 Amperes and that a correct declaration had been filed in the Bill of Entry. In the Exemption Notification No.188/87 various goods have been described in the Table annexed to that Notification which were eligible for the concessional rate of customs duty, at Sl. No. 22 of the Table - Relays of contract rating upto 7 Amperes have been listed. He also mentioned that the various goods eligible for the concessional rate of duty were classifiable under Chapters 38,84,85,90 and 98 of the Customs Tariff and that the view taken by the Id. Collector of Customs Appeals that only the goods for the electronic industry were covered by the concessional rate of duty was not correct. With regard to auxiliary duty he referred to the Notification No. 209/87-Cus.

4. In reply, the Id. SDR referred to the Order-in-Appeal and stated that a reading of the various items will show that all the goods were for the electronic industry and the appellants were engaged in the manufacture of Iron & Steel Items and the benefit of concessional rate of duty was not applicable to them. With regard to auxiliary duty, he referred to the Bill of Entry, where the Import Department's Sl. No. & Date has been mentioned and the date is 15th of May, 1987. He also stated that under relevant provision of the customs duty, the rate of duty as well as any exemption has to be determined with regard to the date of import which is 5-5-1987 in this case. As the Notification No.209/87 was issued on 12-5-1987, the case of the appellants for auxiliary duty was not covered by this Notification.

5. We have carefully considered the matter. There is no dispute that the goods imported were designed for use in 230 Volts D.C. upto 5 Amperes and that correct declaration had been made by the importers on the relevant Bill of Entry. This position has been accepted by the Collector of Customs (Appeals). We find that under Notification No.188/87-Cus., dated 29-4-1987 various goods under Chapter 38 or Chapter 84 or Chapter 85 or Chapter 90 or Chapter 98 of the Customs Tariff were eligible for assessment at the concessional rate of duty. In the Table annexed to that Notification against Sl. No. 22 Relays of contact rating upto 7 Amperes has been mentioned. As the goods to satisfy the description as given against Sl. 22 of the Table annexed to Notification No. 188/87-Cus., it has to be considered that they were eligible for the concessional rate of duty under that Notification. We find that various goods falling under different Chapters as has been mentioned above are listed in the Table and there is nothing to indicate that only the goods meant for electronic industry were covered by this Notification.

6. Insofar as the benefit of Notification No. 209/87-Cus. is concerned, we find that this Notification was issued on 12-6-1987 in supersession of the Notification No. 115/87-Cus., dated 1-3-1987. The Notification No. 138/87-Cus. (sic) was listed in the schedule to that Notification while in the Notification No. 209/87-Cus., dated 12-5-1987.

Notification No. 188/98-Cus., dated 29-4-1987 is listed in the schedule, this Notification is valid only from 12-5-1987. It is seen from the relevant Bill of Entry that the relevant date for determining the duty liability is 5-5-1987 (sic). Thus the benefit of Notification No. 209/87-Cus., dated 12-5-1987 could not be extended to the goods in question.

7. Taking all the relevant considerations into account while the goods in question were eligible for the benefit of Notification No.188/87-Cus., dated 29-4-1987 insofar as the basic customs duty is concerned, we find insofar as the payment of auxiliary duty is concerned, the Notification No. 209/87-Cus., could not be made applicable inasmuch as the goods were imported on 5-5-1987.

8. In view of the above discussion, the appeal is [partly] allowed.

Ordered accordingly.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**