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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Feb-19-1983

Reported in : (1983)LC425DTri(Mum.)bai

Appellant : Godrej Ltd.

Respondent : Collector of Customs

Judgement :

1. This is an appeal transferred to the Tribunal under Section 131-B of the Customs Act. The appellants have argued that their imports of DL-Methionine were fully covered under OGL C.V. dated 15-12-76 as all the conditions therein had been fulfilled. The Deputy Collector and thereafter the Appellate Collector had wrongly held that only the manufacturer of drugs could take advantage of the OGL. There was no warrant in such interpretation of the OGL. The appellants representative has further argued that there was no dispute regarding the other conditions of the OGL that the goods imported were drugs, that the importer was an actual user, that he was registered with the D.G.T.D. or the State Drug Control authorities, and has a licence under the Drugs & Cosmetics Act, 1940, and required the goods in his own industry. The necessary documents to show compliance with these requirements were produced to the Customs authorities, at the time of import and photo-copies have been filed along with appellant's appeal.

In addition, the C.C.I, had sent his recommendation to the Customs authorities and the photo-copy of his letter No. IPC (Gen. 252)/76 dated 17/19th May, 1977 had been filed with the appeal. However, the recommendations had not reached the Customs authorities and possibly for this reason they did not take note of the same. In support of this contention Shri Ravindran has filed a photo-copy of the letter S/49-315/77-L from the Asstt. Collector of Customs, Bombay. In addition he had also filed a photo-copy of the Board's order-in-appeal No.362-363 of 1978 dated 30-9-78 under reference F. No. 381/84 and 85/77-Cus. IIA and submits that on the analogy of the order, the relief may be given in the amounts of fine if the first plea of the import being held as valid under the O.G.L. is not accepted. The departmental representative has reiterated that the import of drug is allowed to the manufacturer of drugs who uses the same in his own factory. Since this was not the case with the imports in question, the imports were not covered under the OGL and consequential penal action taken is in order.

This is further confirmed by the appellate order of the Board referred to by Shri Ravindran. The Departmental Representative has not been able to throw any light on the receipt of recommendations from the C.C.I. He further submits that there is no scope in showing any leniency on the analogy of the Board's order.

2. We have considered the submissions. We find that the OGL does not stipulate that the import of drugs has to be by an actual user who is himself a manufacturer of drugs. The OGL has to be interpreted as per its wordings and it is not open for the Customs authorities to read more in it than the mere text permits them to do so. It is also seen that the imported goods have been utilised for the manufacture of poultry-feed which has been exported, thus earning sizeable foreign exchange for the country. Apart from this, the C.C.I, has conveyed his recommendations and these recommendations are normally acceptable to the Customs authorities. Considering these circumstances, particularly, the fact that the OGL is fully applicable in the case, we find that the Deputy Collector's orders of confiscation of the two consignments are not correct. We set aside the same as also the order dated 10-8-79 of the Appellate Collector of Customs confirming the Deputy Collector's orders. The appeal is thus allowed and the consequential refund of fines paid is granted to the appellants.