

Collector of Customs Vs. Eastern Enterprises

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-04-1998

Reported in : (1999)(112)ELT875TriDel

Appellant : Collector of Customs

Respondent : Eastern Enterprises

Judgement :

1. In this appeal filed by the Revenue, the order dated 14-8-1991 passed by the Addl. Collector of Customs, New Delhi is under challenge.

The Addl. Collector has passed the following order :- The goods should be assessed provisionally on the basis of the prices of these bearings as per the 1979 price list less 80% with 20% extra duty deposit for difference of duty between invoice value and the 1979 price less 80%.

The Assessing Officer should obtain a copy of the 1979 price-list from the Bombay Customs House for the above purpose. The importer should submit a valid import licence for the goods for a CIF value as per 1979 prices less 80%. He should also submit valid licence for the bearing 7516 as per his undertaking in his letter dated 5-6-1991. I drop the charges of misdeclaration in the SCN." 2. It is seen from the order that the charge of mis-declaration has been dropped. The adjudicating authority has observed that the importer had indicated the description "TAM Brand Bearings" in the bill of entry, which was the description as given in the invoice. Invoices indicate the bearing numbers. On this ground, he held that there was no

mis-declaration of the description.

3. As regards the value, he had referred to the practice in the Customs House that consignment were being released provisionally with 20% extra duty deposit for the difference of duty between the invoice value and the value at 1979 price list less 80%. The adjudicating authority had followed the same. Further, he had asked the importers to submit a valid import licence.

4. The Revenue had contended in this appeal that the benefit of Notification No. 146/86, dated 26-2-1986 was only applicable to Ball Bearings and that the TAM Brand Bearings were not covered by the same.

It has further been submitted that the importers were required to declare the nature and bore of the bearings in the bill of entry.

5. We find that the importers had indicated the description as given in the invoices and in the invoices, the bearing numbers were given.

6. We have heard Shri R.S. Sangia, JDR, who is present for the appellants/Revenue. When the case was called, none appeared for the respondents, M/s. Eastern Enterprises. As the matter is very old, we are deciding the matter on the basis of the evidence on record. We have already referred to the operative part of the order passed by the adjudicating authority. We have gone through the grounds of appeal urged by the Revenue. We find that the Addl. Collector of Customs had given the certain directions for assessing the goods provisionally on the basis of the invoices as per practice in the Customs House. He has also demanded valid import licence. In the facts and circumstances of the case, we do not find any ground for interference in the directions and the observations of the adjudicating authority. We do not find any merit in this appeal filed by the Revenue and the same is rejected.

Ordered accordingly.

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