Mazda Camera Centre Vs. Commissioner of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Apr-23-1998

Reported in : (2000)(117)ELT773Tri(Mum.)bai

Appellant : Mazda Camera Centre

Respondent : Commissioner of Customs

Judgement :
1. Appellant in pursuance of an order placed by it opened a letter credit on 16-7-1992 for import of parts of photographic camera. Prior to 30-6-1992 import of such parts was under Open General Licence (OGL).

By notification issued on 30-6-1992 the Director General of Foreign Trade extended the definition of "consumer durables" occurring in the policy so as to include in it the accessories and spare parts. As a result parts of cameras which come OGL now required an import licence.

Therefore when the goods arrived in Mumbai on August, 1992 they were held liable to confiscation in the absence of such a licence. In the order impuged in the appeal the Assistant Collector whose order has been confirmed the Commissioner (Appeals) ordered such confiscation with option to redeem the goods on payment of fine Rs. 44,000/-. Hence this appeal.

3. The notification dated 30-6-1992 was published in the Gazette of India as required by law. This Gazette was made available to the public for sale on 22-7-

1992. This is what emerges from the letter dated 27-2-1998 to the Assis- tant Controller in the Department of Publication in the Ministry of Urban Affairs. The appellant has produced before us a letter to the "Times of India" asking as to whether the notification dated 30-6-1992 was published in the Times of India or Economic Times in the first week of July, 1992. The office of these newspapers has said on the letter "Checked but not found". It is therefore reasonable to conclude that on the date on which the appellant opened the letter of credit it could not by exercise of reasonable deligence come to know about the change in the policy. In these circumstances, we are of the view that confiscation of the goods was not justified.

4. We, therefore, set aside the confiscation and allow the appeal with consequential relief, if any.