Commissioner of Customs Vs. Hariom Traders

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SooperKanoon Citation : sooperkanoon.com/13998

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-30-1998

Reported in : (1999)(107)ELT407Tri(Mum.)bai

Appellant : Commissioner of Customs

Respondent : Hariom Traders

Judgement :

1. The issue in both these appeals being common they are disposed of by this common order.

2. Each of the appellant imported dry dates sukkur. In each case the letter of credit against shipment was opened on 5-9-1991. Importers were permitted in terms of Open General Licence (OGL) prior to this date onwards by amendment made on policy of such import required an EXIM scrip. The licensing authority have clarified that where letters of credits were established prior to 5-9-1991 and shipment effected before 4-10-1991 the goods would be cleared under OGL.

3. In the orders impugned in appeal the Additional Collector has held that the goods are liable to confiscation for the reason that the letters of credit were opened a day after the last date specified by the clarification of the licensing authority and released the goods on arriving. Hence this appeal of the department.

4. I have heard the departmental representative and respondents are absent.

5. The ground in each of the appeal says that the order of the Additional Collector explains reference not procured by the public notice of the licensing authority and he should have followed the same.

The Additional Collector has in effect held that goods are liable to confiscation but presumably on the ground that letters of credit were opened only later although he goes to say so ordered release of the goods on caution. There is no contention that the letters of credit were opened with a view to defeat the objective of the policy or in any manner or in any way other than bona fide in the order. Further, it is doubtful in their if the notification changes in the policy were 5-9-1991 would be know to the public prior to 6-9-1991 by this letter.

In these circumstances the exercise of leniency by Additional Collector cannot be questioned.