

Mansi Enterprises Vs. Cc

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Feb-16-1999

Reported in : (1999)(83)LC351Tri(Mum.)bai

Judge : G Brahmadeva, R T Lajja

Appellant : Mansi Enterprises

Respondent : Cc

Judgement :

1. In this appeal filed by M/s. Mansi Enterprises, the matter relates to the valuation of Bearings imported from Romania. The imports were effected in the year 1984-85. The importers declared price on the basis of the 1983 price lists. The Collector of Customs, Bombay, who adjudicated the matter, observed that the letter of credit was opened on 28.6.1984 and the assessable values had to be determined on the basis of the 1984 price lists. He confiscated the goods and imposed the penalty.
2. When the matter was called, none appeared for the appellants. The appellants have prayed for decision on merits.
3. We have heard Shri K. Shiv Kumar, JDR for the respondents/Revenue and have gone through the facts and circumstances of the case.
4. There is no dispute as regards the facts of the case. Bearings of different types had been imported from Romania and different bills of entries were filed. The assessable values were declared based on the suppliers price lists for the year

1983. The goods have actually been imported in the year 1984-85. The letter of credit had also been opened only in the year 1984 on 28.6.1984.

5. The appellants had contended that they had placed orders in the year 1983 with the Trade Representative of the Socialist of Romania in India at Bombay. They had pleaded that the prices should be taken for assessment as prevailing in the year 1983. The adjudicating authority had observed that all the imports were effected in terms of the letter of credit, which had been opened in 1984.

6. The letters of credit were not placed on record. We have noted that in the case of Romanian Ball Bearings, there was a practice of publishing price list and it applies with reference to the date of the opening of letters of credit. It was also seen that the prices declared were not in conformity with the same foreign suppliers' 1984 price list. Shri K. Shiv Kumar, Ld. JDR has referred to the Supreme Court's decision in the case of Rajkumar Knitting Mills (P) Ltd. v. CC, Bombay . In that decision, the Hon'ble Supreme Court had held that the relevant date for determination of the value for assessment of customs duty is the date of importation or exportation and not the date of contract. The Apex court referred to the provisions of Section 14(9) of the Customs Act, 1962 and have observed that the value of the goods had to be ascertained on the basis of the prices at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation and exportation in the course of international trade.

7. In view of the settled position, the impugned order insofar as the determination of the assessable value is concerned, is correct and is confirmed.

8. The differential duty, which had been demanded in the present case was of Rs. 31,95,704/-. With regard to different bills of entries a penalty of Rs. 10,03,250/- had been imposed.

9. Keeping in view the facts and circumstances of the case, we reduce the penalty from Rs. 10,03,250/- to Rs. 5,00,000/- (Rupees Five Lakhs Only). Subject to the above reduction in the amount of penalty to Rs. 5 lakhs, the appeal is otherwise rejected. Ordered accordingly.