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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Mar-02-2000

Reported in : (2000)(93)LC714Tri(Delhi)

Judge : S T G.R., S Kang

Appellant : Cc

Respondent : Raman Sood and ors.

Judgement :

1. Shri R.D. Negi, Ld. DR submits that in all these six appeals only one issue is for determination and that is the issue of demand of duty on goods confiscated but allowed to be redeemed on payment of redemption fine without collecting the duty.

2. The facts of the case in brief are that the respondents imported these cars under Carnet-de-passage scheme wherein the imported goods are required to be exported within a period of six months or within the extended period permitted by the competent authority. Information was received in the office of the Director Revenue and Intelligence that certain cars imported under Carnet-de-passage Scheme have over-stayed and have not been exported. Accordingly, investigations were conducted, cars were seized and matter was adjudicated. The adjudicating authority allowed the cars to be redeemed on payment of fine and penalty. The Department has come up in appeal against these findings on the ground that in terms of Section 125 of the Customs Act, goods can be redeemed only not on payment of fine and penalty but also on payment of duty prevalent at

the time.

2. Shri R.D. Negi, Ld. DR submits that payment of duty is the requirement of law and goods cannot be redeemed only on payment of fine and penalty at the time of redemption fine of the goods. Collection of duty is an essential requirement of Section 125. He submits that since duty has not been collected and since the token redemption fine has been imposed by the adjudicating authority, the order was wrong and illegal. He, therefore, prays that the applicant may be permitted to collect the duty and that the quantum of redemption fine may be enhanced in view of the fact that the cars have been valued at Rs. 12 lakhs each and the margin of profit in Mercedez cars in India which needs to be wiped of by imposition of a higher redemption fine is a very high and thus the amount of Rs. 50,000/- as redemption fine is unduly low. He, therefore, prays that the appeal of the Revenue may be allowed.

4. We have heard the submissions of Ld. DR. We have perused the evidence on record. We note that Section 125 of the Customs Act, 1962 provides for payment of duty at the time of exercising the option for redeeming the goods. In the instant case this aspect has been lost together by the adjudicating authority. In the circumstances, we hold that the impugned order has legal infirmity to that extent the impugned order is set aside and the appeal of the Revenue is allowed on this point.

5. Revenue has also contested that the redemption fine is too low. We find from the records placed before us that the Department has not substantiated their claim by any evidence that the margin of profit was not wiped out by conducting any market enquiries. In support of their contention since no evidence has been placed on record, therefore, we do not like to interfere with the quantum of redemption fine.

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