

Commr. of Cus. Vs. N.T.V. Multiwall Paper Bag Co. P.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-23-2000

Reported in : (2001)(127)ELT747Tri(Mum.)bai

Appellant : Commr. of Cus.

Respondent : N.T.V. Multiwall Paper Bag Co. P.

Judgement :

1. The appeal is against the order of the Collector of Customs permitting a consignment of paper claimed by its importer to be waste on mutilation.
2. We have heard the Departmental Representative. Respondent is absent and unrepresented despite notice.
3. There are two grounds raised in the appeal. The first ground is that the goods were not mutilated. The appeal does not indicate the reasons why such mutilations permitted in the importer's premises were not carried out. This however is no ground for setting aside the Collector's order, especially when the circumstances for not carrying out mutilation are clear. The Collector's order is clear that on mutilation of the goods, duty shall be levied on the goods as waste.

This is under Section 24 of the Act that he has applied. The department however, no doubt would be at liberty to pursue with the confiscation according to law, subject to the condition that mutilation ordered were not done. However, as we have said, this is no ground for filing an appeal against the Collector's order. The

importer had claimed the goods to be scrap and unusable as paper in rolls, for the reason that it contained imperfection and other defects which would prevent its use as paper and claimed that the import was made for use as scrap. It is contended that goods were considered as waste paper in the country of export. The Collector finds that this claim cannot be rebutted since no one in the custom house was competent to test the goods. (Apparently, the question of having an expert in the trade to test did not come up).

In the circumstances, we find nothing wrong in the Collector resorting to Section 24 of the Act. The fact that the Collector ordered confiscation of the goods does not affect this position. He may have found that while technically the goods did not qualify as scrap in India, the fact that they were so considered abroad the purpose of importation justifies its extending the provision of Section 24.

4. We therefore decline to interfere. The department, as indicated above, has liberty to pursue confiscation, if the mutilation as ordered by the Collector has not been carried out.

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