

Collector of Customs Vs. Arvind Exports

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-02-2000

Reported in : (2001)(128)ELT133TriDel

Appellant : Collector of Customs

Respondent : Arvind Exports

Judgement :

1. The Advocates for the respondents had preliminary objections on the admissibility of the subject appeals filed by the Revenue. These were : - (i) All appeals are filed against remarks and observations made in the note sheets in different office files. There is no decision or order passed by a Collector in these cases as an adjudicating authority and he relied on CC v. Metro Exporters P. Ltd., 1988 (37) E.L.T. 610 (T).

(ii) Appeals are filed and signed by Assistant Collector of Customs based on the letter of Authority from the Collector, who has no power to delegate under Section 129D. The Counsels relied upon State of MP v. Bhupendra Singh (iii) The CBEC has passed common review order under Section 129D(1) i.e. Order Nos. 87R to 88R dated 1st October, 1983 passed by Shri J. Dutta. This is invalid as facts of Arvind Exports & Pacific Exports are totally different. There was no revalidation of licences.

2. We find that the Central Board of Customs in exercise of powers conferred upon it by Section 129D(1) of the Customs Act, 1962 directed the "Collector of Customs

to make an application against the said orders of clearance passed by the Collector of Customs to the Customs, Excise and Gold (Control) Appellate Tribunal under Section 129D(4) of the Customs Act for determination of correct and legal possession(s) should be the position of issues raised and for setting aside the said orders of Collector of Customs in so far as it relates to clearance of beef tallow against REP Licences of the types referred to in the said order." 3. In spite of the clear directions to the Collector of Customs, the applications were filed by Assistant Collector of Customs for Tribunal Cell, Customs House, Calcutta as it appears from the papers/signatures on record. However a letter of Authority signed by the Collector of Customs authorising the said Asstt. Collector of Customs, Tribunal Cell to file the appeal in each case has been enclosed.

4. Considering the fact that the appeals have not been filed by the said Collector who was directed under Section 129D(1) but have been filed by a further delegate officer who was not the adjudicating authority. We are inclined to find that these appeals on this small ground only are not appeals filed by the proper officer relying on the case law submitted by the Counsel especially on 1999 (34) RLT 558 (CEGAT) Collector of Customs, Bangalore v. Lakshmi & Co. in this case there was an order-in-original impugned by Additional Commissioner, Bangalore while the appeal was filed by the Commissioner, Customs, Bangalore and since the appellants was found not to be the same authority who had passed the order-in-original impugned. The appeal was not held to be filed by the proper officer and was dismissed without going into the merits of case and on 2000 (38) RLT 343 (Yash Rasayan).

5. In view of the above, we order the dismissal of the abovesaid appeals without going into the merits of the case or the other issues raised.

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