

**Dear Impex Vs. Commissioner of Customs**

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**SooperKanoon Citation :** [sooperkanoon.com/20844](http://sooperkanoon.com/20844)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

**Decided On :** Feb-09-2001

**Reported in :** (2001)(131)ELT129Tri(Mum.)bai

**Appellant :** Dear Impex

**Respondent :** Commissioner of Customs

**Judgement :**

1. The application is for waiver of deposit of penalty of Rs. 2.50 lakhs imposed under Section 114(1) of the Act, on the ground that the skirts tendered for export was over valued.

2. After heading both sides, we find a prima facie in favour of the applicant so far as the penalty is concerned. The evidence relied upon by the department to establish over valuation consists of the price at which such goods are sold at "Fashion Street" and the "enquiry" conducted by an officer of the department to the shop-keeper at Colaba.

It is well known that the goods sold at "Fashion Street" are largely export rejects or over run and the price at which they are sold cannot prima facie be the value for international price. The enquiry by the officer at the Colaba shop led him by coincidence to an exporter of Jaipur who apparently told him that he could supply the skirts in question at much cheaper rate. At this stage, we find this evidence vague and made even less acceptable by the fact that cross-examination was denied of the officer.

