

Rishiroop Rubber Vs. Commissioner of Central Excise and

Rishiroop Rubber Vs. Commissioner of Central Excise and

SooperKanoon Citation : sooperkanoon.com/22410

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Apr-23-2001

Appellant : Rishiroop Rubber

Respondent : Commissioner of Central Excise and

Judgement :

1. The application is for waiver of deposit of duty of Rs. 6.60 lakhs and penalty of Rs. 10,000/-.
2. The applicant, a 100% export oriented unit, imported chemicals and synthetic rubber which are its raw materials, without payment of duty in terms of notification 18/81. The duty has been demanded and penalty imposed on the finding of the Commissioner that the applicant removed without payment of duty as provided in the notification the steel drums in which such raw material was packed.
3. Among the various contentions that the advocate for the applicant raised two are prima facie attractive at this stage. The first is that the unit being a Custom House bonded warehouse, issues and removal of the goods could not take place without the physical presence of the customs officer posted therein. The warehouse is under a double lock system, one lock being perated by the officer and the other by the manufacturer. The second is that the value taken of Rs. 300/- per drum is excessive. The drums became damage and corroded because of the acid used to clean them and the pervasive presence in the factory of chlorine, one of the chemicals used for manufacture. They had in fact been removed at all and become scrap. On a few earlier occasions, drums were they were sold at Rs. 100/-

per drum.

4. The Departmental representative contends that the provisions in the notification should have been given effect to.

5. The Commissioner in his order does not appear to have dealt with the points raised before us. Prima facie these two grounds are in the applicant's favour. In that case, the duty, if any, would be little over Rs. 2 lakhs. We therefore accept the offer made by the counsel for the applicant to deposit within four weeks from the receipt of this order an amount of Rs. 75,000/-. On such deposit being made, we waive deposit of the remaining amount of duty and penalty and stay its recovery.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com