Ramka Silk House Vs. Cc

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-30-2001

Reported in : (2001)(97)LC570Tri(Mum.)bai

Judge : S T Gowri, P Chacko

Appellant : Ramka Silk House

Respondent : Cc

Judgement :

1. The application is for waiver of deposit of penalty of Rs. 2.50 lakhs imposed on the applicant under Section 114 of the Act.

3. The penalty has been imposed on the ground that the applicant misdeclared the bleached, optically whitened fabrics which it tendered for export to be dyed fabric for the purposes of claiming a higher benefit under Duty Free Replenishment Certificate Scheme.

4. We are not prima facie able to accept the contention of the Counsel for the applicant that the report of the Synthetics and Art Silk Mills' Research Association (SASMIRA) indicates the fabrics to be dyed. It explains that they have been treated with optical whitener. Prima facie this is not dyeing, defined in the Fairchild's Dictionary of Textiles to uniformly cover fabric with solid colour. While the contention that the goods were not liable to confiscation under Clause (d) of Section 113 of the Act for wrongly claiming Duty Free Replenishment Certificate

benefit is prima facie correct, there was a claim for drawback of duty, prima facie incorrect on account of the higher value declared of dyed fabric.

5. Taking all aspects into account, we direct the applicant to deposit Rs. 1.25 lakhs within a month from the receipt of this order upon which we waive deposit of the remaining penalty and stay its recovery.