

AshwIn Mehta Vs. Commissioner of Customs (Prev.),

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-21-2001

Reported in : (2001)(134)ELT428Tri(Mum.)bai

Appellant : AshwIn Mehta

Respondent : Commissioner of Customs (Prev.),

Judgement :

1. In the order under reference, the Tribunal had confirmed the penalty imposed on Ashwin Mehta, upholding the finding of the Collector (Appeals) that he was concerned with the disposal of the goods. The Additional Collector had imposed penalties on various persons under Section 112(a)(1) of the Act.

2. While dealing with the appeal of S.S. Bindra in the same order, the Tribunal had noted that penalty under clause (a) of Section 112 of the Act could not be imposed on Bindra. It noted that the import was not illegal. What was illegal was the subsequent sale of the goods contrary to law. It is contention of the counsel for Mehta, by the same reasoning, the penalty imposed on Mehta for dealing with the goods after their importation is contrary to law. The mistake in the order lies in overlooking this obvious fact.

3. The Departmental representative is not in a position to rebut this claim. It is also clear from these facts that this is an error apparent on record. It does not need any great process of reasoning or study to come to the conclusion that penalty was not imposable on Mehta under clause (a) of Section 112 of the Act. No doubt there

was no such ground in the appeal. However, the proposition is clearly evident.

4. Accordingly, we allow the application and as a consequence allow the appeal of Ashwin Mehta and set aside the penalty imposed on him.

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