Prithvi Kothari Vs. Commissioner of Customs,

Prithvi Kothari Vs. Commissioner of Customs,

SooperKanoon Citation : sooperkanoon.com/24786

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-01-2001

Reported in : (2002)(149)ELT142Tri(Mum.)bai

Appellant : Prithvi Kothari

Respondent : Commissioner of Customs,

Judgement :
1. The appeal is against the order of the Commissioner of Customs, extending by a period of one month the time within which the show cause notice under Section 110 of the Act was to be issued to the appellant in respect of the goods received by it.

2. We have not gone into the question as to whether this order is an interim order and therefore appealable. Even if it is assumed that this is so, we fail to see how the appellant would be aggrieved by this order. The representative of the appellant says that the appeal is limited to imposition of penalty. It is now settled by the judgment of the Supreme Court in AC vs Charandas Malhotra 1983 (14) ELT 77 that the period prescribed in sub section (2) of Section 110 of the Act for issue of notice affects only seizure of the goods and not the validity of the notice issued under Section 124 of the Act. That goods can be confiscated notwithstanding that the notice was not issued within the period prescribed in section 110 is made clear in the judgment of the Supreme Court in Harbans Lal vs. CCE&C 1993 (67) ELT 20. That being the case, the liability of the goods to confiscation was not extinguished by failure to issue a notice within six months, and would have

subsisted (assuming that they were liable to confiscation) even if the period for issue of notice were not extended. The appellant cannot therefore be aggrieved by the order.

3. The appeal is therefore not maintainable and is accordingly dismissed.