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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Sep-07-2001

Appellant : Puja Enterprises

Respondent : Commissioner of Customs

Judgement :

1. At the last hearing, the departmental representative informed the bench that notice has been issued to Betul Oil and Flour Ltd., the licensee in respect of a number of licences issued to it including the licence which had been transferred by Veekay Pvt. ltd., which the appellant before me claims has in turn been transferred to it. The show cause notice proceeds on the basis that the licences were not issued in accordance with law. He suggested that disposing of this appeal would have the effect of adjudicating on the dispute pending before the Commissioner. The counsel for the appellant contended that the goods were validly covered by a licence and the licensing authority has confirmed this to be the case in his letter to the custom house dated 14.12.99. He pointed out that in similar circumstances, the Dy.

Commissioner of Customs had himself permitted clearance of Veekay products against similar licence subject to the bank guarantee for the duty amount. Since it was the appeal that had been listed, the matter was adjourned for filing a miscellaneous application.

2. The application has been filed and taken up today. Counsel for the applicant has produced a copy of a letter dated nil. 07.2001 of the Dy.

Commissioner of Customs, Special Investigation and Intelligence Bureau to Veekay Products Pvt. Ltd. That letter communicated to it the acceptance by the adjudicating authority of the request to release the goods apparently pending adjudication, subject to renewal of an earlier bank guarantee of Rs. 40 lakhs; execution of fresh guarantee for full payable on the goods and debiting a valid advance licence.

3. Counsel for the applicant contends that in pursuance of this letter goods have been released on execution of bank guarantee for the amounts of duty.

4. If that is the case, it would then follow that the gods are that presently under consideration, clearance of which is sought against the licence issued to Veekay Products and transferred to the applicant should be permitted clearance pending adjudication of the acceptability of the licence on the same term. It would be unfair to keep the goods pending for completion of what could possibly be prolonged adjudication proceedings particularly when other goods have already provisionally released.

5. I therefore order that the goods under consideration may be released on the same terms and condition as those communicated in the letter number SG/INF-DC/99SIIB(I) dated nil. 7.2001 of the Dy. Commissioner of Customs. The appeal is adjourned sine die. Either side is at liberty to mention it as and when adjudication proceedings are completed.