

Haidery Tines Vs. Commissioner of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Nov-02-2001

Appellant : Haidery Tines

Respondent : Commissioner of Customs

Judgement :

1. It is brought to the notice of the Bench that prior to the passing of the impugned order by the Commissioner the proprietor of M/s.

Haidery Tins, expired and the present appeal has been filed by his widow who is his legal representative. The impugned order is an order of confiscation of 127.24 MTS. of Tinplate coils imported by M/s.

Haidery Tins with option to redeem the same on payment of fine of Rs.5 lakhs, enhancement of the value of the goods imported and imposition of penalty of Rs. 2 lakhs on the importers. Since the penalty is in the nature of a personal penalty as a proprietary concern has no legal existence apart from proprietor who has expired, the question of recovery of the penalty from the legal representative does not arise and the stay application therefore becomes infracts and is dismissed as such.

2. The prayer for early hearing is allowed having regard to the fact that the appellant is legal representative of the individual importer and further having regard to the fact that the goods have been lying in Customs Bonded Warehouse since 1998 and the bank interest and warehousing charges are mounting day by

day and the applicant is unable to bear this charge. The appeal is now fixed for 7.12.2001.

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