Noble Projects and Enterprises Vs. Commissioner of Cus. (Export),

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SooperKanoon Citation : sooperkanoon.com/27184

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jan-09-2002

Reported in : (2002)(143)ELT331Tri(Mum.)bai

Judge : G Srinivasan

Appellant : Noble Projects and Enterprises

Respondent : Commissioner of Cus. (Export),

Judgement :

1. Appeal has been taken up for consideration with consent of both sides, after waiving deposit.

2. The present appeal has been filed by the appellant against the decision of the Commissioner of Customs, Mumbai, whereunder he felt that there was a misdeclaration of export in respect of knitted jackets and pyjamas valued at US $ 36,000/- and US $ 18,000/- respectively and the drawback claim of Rs. 3,13,250/- was made. It transpires that the appellant has also exported other five items of textiles whereunder in respect of 100% cotton polyester woven jeans was procured by him from the market and exported the same. In respect of this item also the charge against the appellant was that he had misdeclared it. Yet it was found that he has not misdeclared it.

3. During the course of the hearing, the learned Counsel pleaded before me that in respect of the items procured by the appellant from outside, it has been proved

correct. When there is a mistake has occurred in respect of other two items i.e. two out of seven items, there should be leniency in imposition of penalty. It should be noted here that the learned Counsel has accepted that there can be and there may be misdeclaration for the purpose of claiming drawback whenever goods are procured from outside.

4. I have considered the submissions made by the learned Counsel. I am of the view that when a person is exporting goods, he is obliged to give true particulars to the Customs authorities as to the value of the goods and marginal error may be pointed out by the authorities but it is found in this case instead of rebate claim of Rs. 14,399/- he has claimed Rs. 3,13,250/-which is very much off the target. I am of the view that penalty is called for in this case. I uphold the order of the Commissioner in imposing the penalty on the appellant for violation of Section 114 of the Customs Act. There is a misdeclaration of the description in respect of drawback. The penalty is reduced from Rs. 1 lakh to Rs. 50,000/-, but for this modification the order of the lower authority is upheld.