SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Shiraj International Vs. Cc

Shiraj International Vs. Cc

SooperKanoon Citation : sooperkanoon.com/27345

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-24-2002

Reported in : (2002)(81)ECC562

Judge : S T G.R., P Bajaj

Appellant : Shiraj International

Respondent : Cc

Judgement :

1. Shri H.S. Mew, learned Counsel produces TR-6 challan showing the deposit of Rs. 82,235 as directed in the Stay Order No. S/17/2002/NB(D) dated 13.12.2001.

2. The issue in this case is whether the concessional rate was applicable to the imported goods in terms of Notification No. 34/98 dated 13.6.98 superseded by Notification No. 56/98-Cus dated 1.8.98.

Since the issue stood decided by the Tribunal in the case of M/s.

Tarsem Singh Multani & Sons v. CC, Amritsar 2001 (134) ELT 53 (T) it was decided to hear their appeal itself.

3. The facts in brief are that the appellants imported garlic from Pakistan and claimed the benefit of Notification No. 34/98 dated 13.6.98 superseded by Notification No. 56/98-Cus dated 1.8.98. In terms of this notification the goods were exempt from payment of Special Additional Duty (SAD) only if the same were

sold from a place where no tax was chargeable on sale or purchase of the goods. Appellant claimed the benefit and was extended this benefit. However on verification of the declaration filed by the appellant it was noticed that no sale or purchase tax was payable on the goods in the area where they were sold.Therefore, the Authorities below held that the benefit of Special Additional Duty of Customs was not admissible to the appellants.

Accordingly, the demand of duty was confirmed, interest was also charged and penalty of Rs. 82, 235 was imposed.

4. Arguing the case for the appellants Shri H.S. Mew, learned Counsel submits that same issue came up before the Tribunal in the case of Tarsem Singh Multani & Sons and the Tribunal in that case held that imposition of penalty was not provided under the law. He, therefore, submitted that the appellants are prepared to deposit the duty and interest and that the order imposing penalty may be set aside.

5. Shri Mewa Singh, Learned SDR submits that the Act was amended w.e.f.

1st May, 1998 and since the imports took place during the months of September to December, therefore, the penalty was imposable. He, therefore, submits that the impugned order may be upheld and the appeal may be rejected.

6. We have heard both the sides. We have also perused the evidence on records. We note that the goods in the instant case did not attract sales tax and hence the benefit of exemption under the aforesaid Notifications was not available to the importer. In the circumstances, duty was demandable and penalty was leviable inasmuch as the law was amended for levy of penalty w.e.f. 1.5.98 and the import in the instant case took place during the months of September to December. In the circumstances, we do not find any reason to interfere with the impugned order regarding demand of duty and demand of interest. However, looking to the facts of the case and the evidences on records we reduce the penalty to Rs. 40,000 (rupees forty thousand). The appeal is disposed of in the above terms.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com