

**Sigma Electronics Vs. Commissioner of Central Excise**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Jul-30-2002

**Reported in :** (2002)(146)ELT702TriDel

**Judge :** B T K.K.

**Appellant :** Sigma Electronics

**Respondent :** Commissioner of Central Excise

**Judgement :**

1. The appellants imported Metal Bezels and Metal Strips and cleared them under 35 Bills of Entry dated 10-3-92 to 27-8-92. On examination of the imported goods, the same were considered to be consumer goods, the import of which was not authorised without production of valid import licence. Consequently, the Assistant Commissioner of Customs, Jaipur passed an order dated 31-7-99 in which he ordered for the confiscation of the goods but however gave an option to the party to redeem the same on payment of a fine of Rs. 4,61,800/-. He also imposed a penalty of Rs. 46,480/- on the party. The party cleared the goods on payment of aforesaid redemption fine and the penalty. However, they subsequently, filed a refund claim on 12-7-99 for the amount of Rs. 5,08,280/- representing the above amount paid by them. This refund claim is rejected by the Deputy Commissioner of Customs, Air Cargo, Jaipur, vide his order dated 31-7-99. The Deputy Commissioner in his order observed that the amounts were paid willingly and therefore no refund is due. On the similar grounds, the Deputy Commissioner has rejected the refund claim of Rs. 3,63,000/- filed by the party in respect of fine and

penalty paid by them on the similar goods, the import of which was effected during the period from 30-7-92 to 26-9-92 by his another order of even date. The party filed the appeals but the same are dismissed by the Commissioner (Appeals), Jaipur, vide his order dated 25-7-2000. These appeals are against the impugned order of the Commissioner (Appeals). I have heard Shri K.K. Anand, Advocate for the appellants and Shri H.C. Verma, JDR for the respondents. I have considered the submissions made before me. The Larger Bench of the Tribunal in the case of CCE, Cochin v. M/s. Arvind Exports--2001 (130) E.L.T. 54 (T) has held that the assessment of the Bill of Entry under Section 47 of the Customs Act, 1962 is a quasi judicial exercise of power conferred on the assessing officer and such order is not an administrative order. In any case, the Deputy Commissioner in these cases had passed speaking orders holding the imports unauthorised consequent upon which the appellants paid redemption fine and penalty.

Since the appellants did not file any appeals against such orders of the Deputy Commissioner, the findings arrived at in such orders have achieved finality which cannot be compromised by filing refund claims.

As rightly held by the lower appellate authority, "In the present case, redemption fines/penalties have been imposed, which the party has already paid and consequently, if they were aggrieved by the same, it was incumbent upon them to appeal against the same rather than claim refund from the lower authorities. Having failed to file appeals against the imposition of R.F./P.P., they cannot seek relief through the route of filing of "refund claims." Consequently the refund claims filed by the appellants have rightly been rejected by the lower authorities. These appeals have no merits and the same are accordingly rejected.

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