A.S. Forgings Vs. Commissioner of Central Excise

A.S. Forgings Vs. Commissioner of Central Excise

SooperKanoon Citation : sooperkanoon.com/29264

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-05-2002

Reported in : (2003)(153)ELT306TriDel

Judge : A T V.K.

Appellant : A.S. Forgings

Respondent : Commissioner of Central Excise

Judgement :

1. In this appeal, filed by M/s. A.S. Forgings, the issue involved is whether they have furnished the proof of export of the goods exported by them.

2. Shri K.K. Anand, learned Advocate, submitted that the Appellants cleared 6 pieces of rolls under invoice No. 762, dated 10-3-1995 for export to and through M/s. AMI International, a registered exporter; that AMT International completed all the formalities including execution of B-1 bond for clearance of goods under bond procedure from their factory; that the goods were removed from their factory on 10-3-1995 and the AR-4 number was 6/94-95, dated 10-3-1995; that the goods were exported to Kenya and AR-4 was duly attested by the Customs officer, Ludhiana as proof of export and the same was filed before the Range Supdt. on 12-6-1995 i.e. within 6 months from the date of clearance; that the Asstt. Commissioner demanded the duty on the goods exported under bond on the ground that the appellants had not submitted proof regarding exportation of goods out of India as they had only produced AR-4 which only showed that the goods

were cleared for export from C.F.S.; that the Commissioner (Appeals) also rejected their appeal on the ground that AR-4 did not show whether the goods had actually crossed Indian border.

3, Learned Advocate, further, submitted that on 12-6-1995 they had submitted AR-4, Commercial invoice, Bill of Lading dated 8-5-1995 and Shipping bill export promotion copy which clearly show the export of the goods; that as the goods had been exported within 6 months from the date of removal from the factory no duty is demandable from them; that it is settled law that once the goods are handed-over to the Customs department, it is treated as exported from India. Finally, he submitted that the proof of export has been accepted by the department as the duty has been re-credited in their running bond account. I also heard Shri D.N. Chaudhary, learned D.R. After hearing the submissions of both the sides I observe that it has not been disputed by the Revenue that the goods were submitted to the CF.S., Ludhiana and the fact of which has been recorded by the proper officer on AR-4 form. Once the goods had been handed-over to the proper authority at C.F.S. the question of exporter producing any other proof of export is not required unless and until the department adduces the evidence that the goods were either given back to the exporter or for some reasons the goods were not shipped. No such evidence has been adduced by the department. I, therefore, set aside the impugned Order and allow the appeal filed by the department.