

Commissioner of Customs Vs. Winners

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-16-2002

Reported in : (2003)(159)ELT1147Tri(Mum.)bai

Judge : S T Gowri, P Bajaj

Appellant : Commissioner of Customs

Respondent : Winners

Judgement :

1. In the order impugned in the appeal, the Commissioner has found that the speakers of the kind imported by the respondent required an import licence, which was not produced. He has however noted that the requirement arose as a result of amendment made to the import policy which came into effect from 25-3-1996, and that the goods in question were loaded on board the vessel which carried them to India on 3-3-1996 before this date. He has also found that prior to 25-3-1996, there was a regular practice of clearing such goods both by the Mumbai Customs House and by the Nhava Sheva Customs House. He has therefore held that although, in law, the speakers were liable to confiscation, the facts of the case warrants leniency and allow the import on a caution.

2. The only contention in the department's appeal is that the fact that earlier consignments were cleared without fine does not justify clearing this consignment without a fine. We do not find it possible to accept this contention. If a number of earlier importations had been permitted to be cleared without fine and an importer,

acting on that view, imports these goods, and on the date of which the goods are shipped the policy had not changed, the conclusion that the Commissioner arrives at that leniency is justified and no confiscation is called for, does not, in our view, warrant interference.

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