Commissioner of Customs Vs. J.B. Enterprises

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Apr-30-2003

Reported in : (2003)(160)ELT943Tri(Mum.)bai

Judge : J Balasundaram, S T C.

Appellant : Commissioner of Customs

Respondent : J.B. Enterprises

Judgement :
1. The respondents imported plastic laminated sheets. The Collector of Customs, Kandla adjudicated the case and held that the impugned goods cannot be considered as consumer goods. This is an appeal filed by the department in terms of Board's order No. 8/R-96 dated 11.01.1996 passed by Smt. Ila Chatterjee, Member who on review of the adjudication order, has recorded that the said order of the Commissioner was not legal and proper. The ground adduced by her is as follows:- "Though the item laminated plastic sheets is not directly covered under the definition of the term "consumer goods" which are not permitted for import except against a licence, the item laminated plastic sheet is directly used as a consumer item for the purpose of manufacture of furniture and decoration items which are directly consumed by human beings." 2. It is seen from the above that in one breath she says that the laminated plastic sheets is not directly covered under the definition of the term "consumer goods" and on the other she says that the item laminated plastic sheets is directly used as consumer items for the purpose of manufacturing furniture and decoration items which are directly consumed by

human beings. If the impugned goods are not covered under the definition of the term "consumer goods" and these are used in the manufacture of furniture and decoration items, on both counts the same cannot be considered to be consumer goods under the import and export policy.

3. Accordingly, we are of the view that the impugned order passed by the Commissioner of Customs holding that the impugned goods cannot be considered as consumer goods is legal and proper and the same calls for no interference. The departmental appeal is frivolous and there is no merit in the same.

4. Before parting with the case, we feel constrained to observe that the ground on which the Member of the Board has directed filing of the appeals in this case is self contradictory and clearly shows non application of mind. The Chairman of the Board may institute a system to ensure an end to such frivolous appeals and avoidable litigation.