Patvolk Vs. Collector of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-19-1987

Reported in : (1989)(42)ELT245TriDel

Appellant : Patvolk

Respondent : Collector of Customs

Judgement :

1. Patvolk, Madras had filed a revision application to the Ministry of Finance, Department of Revenue, New Delhi being aggrieved from order-in-appeal No. C3/1258/1981 dated 5.5.81 passed by the Appellate Collector of Customs, Madras. The said revision application stands transferred to the Tribunal in terms of the provisions of Section 131 B of the Customs Act, 1962 to be disposed of as an appeal.

2. Briefly the facts of the case are that the appellants had imported one Chariot Elevateur Henley Hermes 68 vide Bill of Entry No. D/578 dated 30th December, 1979. The same was charged to our duty under heading 87.07 of the Customs Tariff Act, 1975 at the rate of 60% plus 15% ad valorem as per Customs Tariff Act, 1975. The appellant had filed a refund application on the basis of the Deputy Prime Minister's Budget Speech made in the year 1979 and had made a claim that basic 25% duty was leviable. The said refund claim was rejected by the learned Assistant Collector on the ground that since there is no .notification in this regard and he is bound by the provisions of the Customs Tariff Act, 1975. Being aggrieved from the aforesaid order the appellant had filed an appeal to the learned

Appellate Collector of Customs, Madras.

He had confirmed the findings of the Assistant Collector of the similar ground. Being aggrieved from the aforesaid order the appellant has come in appeal before the Tribunal.

3. Shri C.V. Devidasan, Assistant Manager has appeared on behalf of the appellant. He has reiterated the contentions made in the revision application. Shri Devidasan has pleaded that the Forklift imported by the appellants was for the Madras Port Trust and its import was very much beneficial to the nation. He pleads that in view of the Deputy Prime Minister's statement made in the Parliament in 1979, the appellant's revision application which is now treated as an appeal should be accepted. He has further pleaded that no foreign exchange is involved in the importation of the said goods.

4. Shri J. Gopinath, the learned Senior Departmental Representative who has appeared on behalf of the respondent has relied on the orders passed by the lower authorities and has pleaded that in the absence of a notification to this effect no concession can be given to the appellants. Shri Gopinath stated that this Tribunal is a creation of statutes and the statutory provisions are binding on the Tribunal. He had pleaded for the dismissal of the appeal.

5. We have heard both the sides and have gone through the facts and circumstances of the case. There is no notification to the effect that duty has to be charged at the rate of 25% on the import of Forklift. We very much appreciate the feelings and sentiments of the appellants in helping the Madras Port Trust in its modernisation. We have got full sympathy with the appellants. Since the statute does not provide any grant of benefit, we are bound by the statutes and lower authorities have correctly levied the duty under Heading 87.07 of the Customs Tariff Act. In view of the above discussion we do not find any merit in the appeal. Appeal is dismissed.