

Craft Studio Vs. Commissioner of C. Ex.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-21-2003

Reported in : (2004)(163)ELT109TriDel

Judge : N T C.N.B., P Chacko

Appellant : Craft Studio

Respondent : Commissioner of C. Ex.

Judgement :

1. Appellant M/s. Craft Studio, Jaipur cleared a consignment of toys through 1CD, Jaipur under Bill of Entry dated 23-1-1998. The consignment was assessed to customs duty on the declared value of over Rs. 4 lakhs. The appellant had produced invoice No. NI/890/97, dated 11-12-97 in support of the declared value. Subsequently, enquiries made by the Customs Authorities with the Hong Kong Customs Department through Consulate General of India, Hong Kong revealed that the value mentioned in the invoice and declared by the appellant to the Customs Authorities for the import of goods was a gross underdeclaration. The Customs Authorities at Hong Kong reported that there was a double invoicing arrangement between the appellant and his Hong Kong supplier.

As a result, the price mentioned in the invoice represented only a part of the consideration for the goods under import and the exporter received the remaining amount through an open account credited by telegraphic transfer by the appellant. Based on this evidence, the Customs Authorities enhanced the value of the goods

to about Rs. 11 lakhs, demanded a differential duty of about Rs. 2 lakhs and imposed an equal amount of penalty. Further, the toys in question were held to be liable to confiscation for misdeclaration of value under Section 111(m) of the Customs Act, 1962. A redemption fine of Rs. 4,25,000/- was imposed under Section 125(1) Customs Act, 1962. The present appeal is directed against those orders.

2. It is the contention of the appellant that apart from the report received from the Hong Kong Customs and Excise Department, no other evidence was made available to it by the Customs Authorities and that the assessee was not given an opportunity to take part in the enquiry conducted by the Hong Kong Customs Authorities.

3. The appellant also contends that since the goods had already been cleared they could not have been confiscated and redemption fine imposed on them. In support of this proposition, the appellant has relied on the decision of this Tribunal in the case of Prudential Pharmaceuticals Ltd. v. CC, Chennai [2001 (136) E.L.T. 1057 (T)].

4. The learned SDR has pointed out that the offence of misdeclaration and undervaluation of goods remains fully established by the investigations of Hong Kong Customs. He, therefore, submitted that there was no requirement to interfere with the impugned order.

5. This is a clear case of undervaluation of goods in official documents and misdeclaration of price in order to evade customs duty.

The investigations by the Hong Kong Authorities have clearly brought out the modus operandi adopted by the appellant and its supplier to undeclared price in invoices for evasion of customs duty. Payment of undeclared portion of the value of the goods on telegraphic transfer brings but the deliberate nature of the offence. In these circumstances, no interference with the duty demand and penalty is called for. However, the appellant's submission regarding imposition of redemption fine merits acceptance in view of the decision of this Tribunal in the case of Prudential Pharmaceuticals Ltd. 6. In view of what is stated above, the impugned order is

confirmed in relation to duty demand and penalty. However, redemption fine of Rs. 4.25 lakhs is set aside. The appeal is ordered on these terms.

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