

Namaskar Enterprises Vs. Commissioner of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-05-2003

Reported in : (2003)(158)ELT235TriDel

Judge : K Usha, N T C.N.B.

Appellant : Namaskar Enterprises

Respondent : Commissioner of Customs

Judgement :

1. Challenge in this appeal, at the instance of the importer, is against the orders passed by the Commissioner, dated 31-1-2002 enhancing the value of old and used tyres imported and imposing fine and penalty on the importers. The appellant had imported two consignments of old used tyres under Bills of Entry Nos. F11 and F12, dated 14-10-99 declaring their value at Rs. 92,794/- and Rs. 69,595/- respectively. Entertaining a doubt about the value of the consignment as also description of the tyres the goods were seized and later released provisionally. Show cause notice was issued calling upon the appellant to show cause why the declared total value of Rs. 1,62,389/- should not be revised and enhanced to Rs. 10,57,370/- and customs duty demanded on that basis. Penalty was also sought to be imposed. The appellant contended that goods were correctly declared. Commissioner thereafter passed the impugned order directing confiscation of the imported tyres.

2. It is contended by the appellant that the Commissioner has erred in entering a finding against the appellant on the basis of opinion alleged to have been given by M/s. Shakti Retreads and Verma Tyres.

According to the appellant they are not experts whose opinion could be relied on. Learned Counsel for the appellant further pointed out that one of the experts who was made available for cross-examination had denied the signature on the document containing his alleged opinion.

The other expert was not made available for cross-examination. Under these circumstances no reliance could have been placed on their opinion. Learned Counsel appearing on behalf of the appellant brought to our notice two earlier orders passed by us - Final Order Nos. 425 to 429/2002-A, dated 3-9-2002 and Final Order Nos. 573-574/2002-A, dated 7-11-2002 [2002 (149) E.L.T. 1085 (Tri-Del.) - where we had occasion to consider the veracity of the opinion given by the very same witness on the issue of misdeclaration of the old used worn out discarded tyres for use in animal driven vehicles. We have taken the view that the evidence of the so-called experts lack credibility to merit acceptance.

3. The facts are identical in the present case also. We find no reason to take a different view. We therefore set aside the order impugned and allow the appeal.

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