

Baljit Singh Kochar Vs. Commissioner of Customs (Export)

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-20-2003

Reported in : (2004)(166)ELT430TriDel

Judge : P Bajaj

Appellant : Baljit Singh Kochar

Respondent : Commissioner of Customs (Export)

Judgement :

1. In this appeal, the appellants have questioned the validity of the impugned order-in-appeal dated 24th October, 2002 vide which the Commissioner (Appeals) has affirmed the order-in-original passed by the Deputy Commissioner raising duty demand of Rs. 1,36,500/- from them.

2. The learned Counsel has contended that the DEPB licences under which the goods were imported, were purchased by the appellants from the market and there is no evidence on the record to prove that the same were false/forged one and that the copy of the letter of the DGFT declaring the licences fake/forged, and on the basis of which the duty demand has been raised, was never supplied to the appellants. There is nothing on the record to prove that the licences were fake/forged.

Therefore, the impugned order deserves to be set aside.

3. On the other hand, the learned JDR has reiterated the correctness of the impugned order.

4. I have heard both sides and gone through the record. The bare perusal of the record shows that the appellants purchased DEPB licences and imported the goods i.e. Almonds. The duty has been demanded from the appellants on the ground that those licences had been found to be forged and fabricated. But, from the record, it is evident that the said licences were purchased by them from the market and they even demanded the copies of the documents on the basis of which those were found to be forged by the DGFT. But the same were never supplied to them. In the impugned order, the Commissioner (Appeals) has relied upon the letter of DGFT wherein the said authority intimated to the Customs Authorities regarding the forgery of the licences, but on what basis that conclusion was drawn by the DGFT had not been disclosed to the appellants. The appellants are entitled to know the evidence, document and information on the basis of which the DGFT had declared the licences which were purchased by them from the market against payment as forged and fabricated before they can be saddled with the duty demand. The impugned order has been thus passed in violation of the principles of natural justice and the matter deserves to be sent back to the adjudicating authority for furnishing the copies of the documents/evidence/information relied upon against the appellants for raising the duty demand.

5. In view of the discussion made above, the impugned order is set aside and the matter is sent back to the adjudicating authority for fresh decision in the light of the observations made above. The appeal stands allowed by way of remand.

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