Commissioner of Customs (Export) Vs. Blue Chip Impex P. Ltd., Exyon

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SooperKanoon Citation : sooperkanoon.com/33609

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-31-2003

Reported in : (2004)(167)ELT335Tri(Mum.)bai

Judge : S T S.S., K Kumar

Appellant : Commissioner of Customs (Export)

Respondent : Blue Chip Impex P. Ltd., Exyon

Judgement :

1. These appeals have been filed by Revenue against the clearance of Gum Rosin imported on licences mentioning the item permissible as 'Binding Material - Gum' on the grounds - i) Dy. CC has reported the Gum Rosin is used as a tackifier in adhesives.

ii) Dr. Deodhar of IIT had opined on 04.11.1996 that Gum Rosin cannot be construed to be used as binding material for book binding or manufacture of Books and this referred to earlier certificates issued by him.

iii) DGFT letter dt. 17.09.1997 stipulating no objection in permitting import of Gum Rosin against 'Binding Material - Gum' is not based on technical authority/book and it gives no reasons.

a) The Commissioner has logically arrived at the eligibility for imports under the said licences. That cannot be faulted with. The grounds, as taken, especially when Commissioner, to arrive at eligibility, has relied on - (i) I.I.T. certificates and rejected subsequent (dt 04.11.1996) interpretations of Prof. Deodhar being not based on any technical books, (iii) That Adhesives by definition in Technical Books,cover not only ready to use material but ingredients thereof and Gum Rosins use as Tackifier in Adhesive is an admitted technical fact.

b) Once the Advance Licencing Committee and DGFT have accepted and clarified the coverage of an article under the description as given in a Licence issued by them, the Custom Authorities cannot sit in judgement on the said coverage.

c) The statement of an importer cannot determine the interpretation of a term used in the Licence granted by DGFT authorities. The clarifications issued by DGFT are binding.

d) No sustainable grounds are found in these appeals to upset the order impugned.