

Cc and Ce Vs. Virat Ship Breaking Corpn.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jan-13-2004

Reported in : (2004)(115)LC336Tri(Mum.)bai

Judge : J Balasundaram, A M Moheb

Appellant : Cc and Ce

Respondent : Virat Ship Breaking Corpn.

Judgement :

1. The Revenue seeks enhancement of the amount of redemption fine and penalty levied and imposed upon the respondents herein on the ground that they started breaking of the ship M.V. Success Hope, imported by them even prior to payment of duty, holding that this amounted to clearance of imported vessel without payment of duty and that vessel was thus liable to confiscation with appropriation of Rs. One lakh out of the security in the form of Bank guarantee furnished by them, and in terms of the bond executed for provisional release of the vessel and imposing penalty of Rs. 50,000/- on the importers.

2. None appeared for the respondents in spite of notice; hence we heard the Id. SDR and perused the records. We note that there was no removal of the ship out of the Customs bonded area. We also note that the explanation of the importers for commencing breaking the ship before payment of duty thereof was the likelihood of damage to the vessel and it was beached about 3000 feet away from their plot and the importers cut it from both sides for lightening the vessel to save it

from heavy damage from high tide. The Commissioner has kept all these relevant factors in view, before levying fine and penalty. The Revenue has not adduced any reasons for increase in the quantum of fine and penalty.

We, therefore, uphold the impugned order and reject the appeal.

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