SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Premji Electronics Vs. Collector of Customs

Premji Electronics Vs. Collector of Customs

SooperKanoon Citation : sooperkanoon.com/3456

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-14-1987

Reported in : (1988)(16)LC534Tri(Delhi)

Judge : J T P.C.

Appellant : Premji Electronics

Respondent : Collector of Customs

Judgement :

1. The appeal involves confiscation of 80 pcs. of video cassette tapes and 2 pcs. of car cassette players of value Rs. 16800/-giving the appellants an option to redeem them on payment of fine of Rs. 5000/-. A penalty of Rs. 2000/- has also been sustained, in the impugned order, on the appellant.

2. Shri S.D. Khera, learned consultant has stated that the goods are not notified on the date of seizure. Video Cassette tapes have been notified subsequently under Chapter IVA in July, 1984. Accordingly, learned advocate submits that the onus is on the department to prove that the goods are smuggled. On the other hand, the appellants have produced a bill dated 9.11.1983 from Videotronics Daryaganj which clearly indicates that bona fide purchase of the tapes. The said later firm has confirmed the sale to the appellants.

3. Learned SDR on the other hand has reiterated the findings of the lower authorities particularly in view of the statement of Shri A.K.Gupta, partner who did

not have any bills/documents of purchase.

Subsequent bill produced by the appellants is a cover-up and an afterthought.

4. I have carefully gone through the records. It is a fact that the goods were not notified either under Section 123 or under Chapter IVA.Therefore, the onus to prove illicit character of the goods is on the department nor is there any liability cast on the appellant to store and sell such non-notified goods nor are they required to keep any proper accounts. Mere foreign origin does not indicate that the goods have been smuggled. By production of a bill from Videotronics who have owned the same the appellant has proved licit possession. Accordingly, the impugned order is set aside with consequential relief to the appellants.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com