

Collector of Central Excise Vs. Rajasthan Spinning and Weaving

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-15-1987

Reported in : (1988)(15)ECC129

Appellant : Collector of Central Excise

Respondent : Rajasthan Spinning and Weaving

Judgement :

1. Brief facts of the case as given in the impugned order are as follows :- The respondent's mills filed a claim for refund of Rs. 7,291.77p on the ground that they had paid interest on warehoused goods-polyester manmade fibre yarn-kept in the warehouse for a period beyond three months, though the goods being 'non-consumable stores' interest was payable only if they were kept for more than a year in terms of Section 61(a) of the Customs Act, 1962.

The impugned order has allowed the refund to the respondents' mills on the following reasoning :- "In the absence of the specific definition of the term 'non-consumable' one has to take recourse to the definition of 'consumable' in the Import Export Policy. In that Policy 'consumables' have been defined as those which participate in the manufacturing process and as such 'non-consumables' should be the converse i.e. those which are required in the manufacturing process but forming part of the end product. While it is true that the fibre at the end of the manufacturing process gets converted into yarn and loses its identity as fibre, the fact remains that fibre has become part of the end product. As such it is clear that the same would merit categorisation as 'non-consumable'. The Assistant

Collector's reasoning that the item is not a 'non-consumable' as the fibre is consumed in the manufacture and does not retain its identity is not correct as what is required to make a product non-consumable is that it should form part of the end product. The fibre precisely does that by becoming a part of yarn and as such it ceases to be a 'consumable' and becomes a 'non-consumable'. Being 'non-consumable store' the warehousing period would be one year and as such the interest paid for the period of storing beyond 3 months but less than one year was correctly refundable and should not have been denied." 2. Collector of Central Excise, Jaipur, the appellant herein, has stated that the word 'stores' is defined in the Customs Act, 1962 as per Section 2(22) of the said Act. There is difference between 'store' and 'goods'.. The word 'goods' includes - vessels, aircrafts and vehicles; stores, baggage currency and negotiable instruments and any other kind of movable property. In other words, all the 'stores' are the 'goods' but it is not necessary that all the 'goods' are 'stores'.

In Section 61(1) only the word 'non-consumable stores' has been used and not 'non-consumable goods'. This goes to suggest that the scope of Section 61 (a) has deliberately been restricted only to the 'stores' which does not include all the 'non-consumable goods' but is restricted only to the 'non-consumable stores'. The polyester fibre in question may be 'non-consumable goods' but as per the definition given in the Customs Act, it cannot be a non-consumable stores. 'Stores' has been defined in the Customs Act meaning 'goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fittings'. The word 'non-consumable' is attached to 'store'. The term 'non-consumable stores' referred to in Section 61(a) would, therefore, refer to 'non-consumable goods' for use in a vessel or aircraft and not other goods. Accordingly, the warehoused goods in the instant case can be stored without payment of interest in the warehouse for the period of three months alone in terms of Section 61(b).

3. Learned consultant for the respondents has based his contentions on the reasoning adopted by the lower appellate authority, namely Collector of Customs (Appeals) and has also urged that the intention of the Government in interpreting the provisions of Section 61 (a) becomes clear when the said Section was

amended subsequently w.e.f. 27-12-85.

The amended provision makes it clear that the goods of the type as in the instant case have a warehousing period of one year.

4. Heard the learned SDR who has reiterated the grounds taken in the appeal set out above.

5. I have carefully considered the pleas advanced on both sides. I am inclined to agree with the view taken by the Collector in the grounds of appeal. It is a well settled proposition of law that any word used in the Act if defined in the Act itself has to be interpreted in the manner as per the definition. This has been held so by the Hon'ble High Court of Bombay in the case of Apar Private Ltd. vs. Union of India [1985 (22) 644 (Bom.)] in the following words :- "In other words, the ordinary meaning of the word should be given effect to for the legislature could not have had the intention to mean otherwise. Where the Parliament being aware of the ordinary meaning of a word, expressly defines it in the interpretation clause of an enactment, differently from its ordinary meaning it makes its intention manifest that the particular word or expression defined by it should be ordinarily understood. Otherwise the very purpose of defining a particular word or expression, the ordinary meaning of which is clear, would be defeated; the definition itself would become redundant. The definition clause makes the intention of the Parliament explicit. That the Parliament intended the word 'India' employed in the Customs Act should be understood as defined is further emphasized by employing the expression 'in this Act unless the context otherwise requires' the word shall mean or include as stated therein." In view of the aforesaid observations the expression 'non-consumable stores' in Section 61 (a) has to be interpreted because the word 'stores' has been specifically defined in Section 2(38). According to that definition 'stores' means goods for use in a vessel or aircraft ... and therefore, the term 'non-consumable stores' for which a larger period of warehousing i.e. one year has been prescribed would mean only the 'non-consumable goods' for use in a vessel or aircraft. Definition given in another Act cannot be imported for the purpose of interpreting the provisions of some other Act is also a well settled proposition of law. Learned Collector (Appeals) has gone further wrong inasmuch as the word

'stores' is specifically defined in the Customs Act and that definition has not been made applicable in interpreting the scope of expression 'non-consumable stores' occurring in Clause (a) of Section 61. The other argument taken by the learned consultant for the respondents is also not correct inasmuch as the amended provision cannot give any guidelines.

6. In view of the above, discussion, goods warehoused by the respondents were liable to be stored in the warehouse for a period of 3 months alone and beyond that period they were liable to pay interest.

Accordingly, the impugned order is set aside while allowing the appeal.

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