Gujarat Electronics and Others Vs. Union of India and Others

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Court : Mumbai

Decided On : Jul-06-1987

Reported in : 1988(15)ECC189; 1988(18)LC350(Bombay); 1988(36)ELT47(Bom)

Judge : H. Suresh, J.

Acts : Customs Act, 1962 - Sections 110(1), 111 and 129D; Central Excise Act

Appeal No. : Writ Petition No. 51 of 1982

Appellant : Gujarat Electronics and Others

Respondent : Union of India and Others

Judgement :

1. The petitioners had imported 100 sets of autocoloured monitors and the respondents found that that was without proper import licence. Hence there were adjudication proceedings and an order was passed on 17th September, 1981, whereby the said sets were confiscated under Section 111 of the Customs Act (hereinafter referred to as 'the Act') read with Section 3 of the Imports and Exports (Control) Act, 1947. However, an option was given to then petitioners to pay in lieu of such confiscation a fine of Rs. 50,000/- and on such fine being paid, the goods could be released to the petitioners. The petitioners availed of this option and got the goods released.

2. However, soon thereafter on 15th December, an Appraiser of the Customs Department issued a memo and sought to seize 54 cartons of those very goods under Section 110(1) of the Customs Act, 1962. The petitioners protested against that on the ground that it is not possible for the Customs Authorities to seize the goods in question after the adjudication proceedings taken out earlier. However, the Customs authorities did not agree and hence this petition came to be filed.

3. Needless to say that the Customs authorities could not have seized the goods once again after giving an option to the petitioners to release the same on payment of fine. If at all the Customs authorities wanted to have the order revived, they should have done so after proceedings under Section 129(d) of the Customs Act. Mr. M. R. Sathe for the petitioners drew my attention to the case of Dina Baldev v. Collector of Customs, reported in 63 BoM LR (873). It clearly lays down the proposition that such an action would be a nullity and can be set aside. In the result, I pass the following order :

4. The seizure memo dated 15th December, 1981 stands quashed and set aside. The personal bonds executed by the petitioners pursuant to the interim order dated 14th January, 1982 do stand discharged and the bonds to be returned to the petitioners for cancellation. The respondents will also return Monitor Set which is still lying with them. However, in the circumstances of the case, there will be no order as to costs.