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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-26-2004

Reported in : (2004)(95)ECC304

Judge : J Balasundaram

Appellant : Abacus Computers Ltd.

Respondent : Commissioner of Customs

Judgement :

1. According to the applicants an error apparent from the record arises in the finding of the Tribunal that the appellants had not placed any material on record as to show that the goods cannot be treated as consumer goods. They submit that they had already submitted written submissions in which they had placed evidence to support their claim that the goods imported by them, namely, personal computers, were not consumer goods so as to hold import without the cover of valid ITC licence as unauthorised. They relied upon the decision of the Hon'ble Supreme Court in the case of PAC Systems Pvt. Ltd. v. CC, 1993 (67) ELT 209 (SC) wherein the Apex Court held that since the Tribunal proceeded on a non-existing ground, namely, that goods imported had been shifted to A3 Appendices under the new Policy and as such para 204(6) of the AM 1990-93 Import Trade Control Policy is not applicable, there was an error on the face of the record.

2. Learned SDR opposes the prayer for rectification pointing out that the aforesaid written submission was considered by the bench and the reliance placed by the

applicant on the Supreme Court decision is totally mis-conceived as the present case is not one of shifting of entries but a case where the Tribunal has given clear finding upholding the order of the adjudicating authority that the goods can directly satisfy human needs and therefore can fall within the definition of consumer goods.

3. I have carefully considered the rival submissions. The entire material was considered before passing the final order. The Supreme Court decision nowhere advances the case of the importers as it does not cover a situation like the present one. No error therefore arises in the final order.

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