Commissioner of Customs Vs. Kiran Electronics

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SooperKanoon Citation : sooperkanoon.com/35082

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Apr-27-2004

Reported in : (2004)(170)ELT288Tri(Mum.)bai

Judge : A Wadhwa

Appellant : Commissioner of Customs

Respondent : Kiran Electronics

Judgement :

1. Commissioner (Appeals) vide his impugned order has set aside the order for confiscation of ICs of foreign origin on the ground that the goods are not notified items, under the provisions of Section 123 of Customs Act, 1962 and Revenue has not been able to produce any documentary evidence on record to supports the allegation and finding of the said goods being of smuggled nature. The Revenue in their memorandum of appeal are contending that the statement of the respondent admits that the goods are of foreign origin and in the absence of production of any documents showing legal importation of the same, it has to be presumed that the goods are smuggled. I do not agree with the above contention of the learned J.D.R. In respect of non-notified items, the burden to prove the smuggled nature of the goods, by production tangible evidence, is upon the Revenue. In the instant case, there is nothing on record to show the tainted character of the ICs in question. Even the statement of the respondent is only to the effect that the goods are of foreign origin and he is further disclosing the names of the persons from whom he has purchased the same. There is nothing in the said statement to the

effect that the goods were of smuggled nature. As such, I do not find any merit in the Revenue's appeal and reject the same.