

Nirali Enterprise Vs. Union of India

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Court : Mumbai

Decided On : Jul-10-1990

Reported in : 1990(50)ELT497(Bom)

Judge : M.L. Pendse, J.

Acts : Central Excise Act

Appeal No. : Writ Petition No. 2037 of 1990

Appellant : Nirali Enterprise

Respondent : Union of India

Advocate for Def. : Shri L.S. Vyas, Adv.

Advocate for Pet/Ap. : D.H. Mehta and; Shri N.M. Shah, Advs.

Judgement :

Rule returnable forthwith.

Shri Vyas waives service on behalf of the respondents.

Heard Counsel.

1. Several petitions are filed in this Court seeking identical reliefs as in present petition and minutes of order are tendered in all the petitions. Shri Vyas has raised

objection to pass identical order on two counts. The first objection is that the petitioner ought to have filed several separate petitions. The objection is that the petitioners have imported various consignments by different ships and in respect of those diverse consignments separate petitions should have been filed. It is difficult to find any merit in the submission, save and except that the respondents desire that there should be multiplicity of litigation. It is difficult to appreciate who would be benefited by filing separate petitions when the relief claimed is identical and it is the petitioners alone who have imported all these consignments. The first objection is therefore overruled.

2. The second objection raised by Shri Vyas is that the invoices filed by the petitioners are not very clear but are vague as though the quantity, unit price and amount is set out, other details are not furnished. Shri Vyas also claimed that though the bills of entries are filed and all other details are supplied, unless this Court gives direction the Collector will not read invoice and bills of entries together. It is difficult to imagine such a submission. I thought that the Collector peruses the invoice and bill of entries together and does not require an order of the court to do so. Indeed in all the minutes which are filed, liberty has been given too the respondents to continue departmental adjudication proceedings and pass order. The relief is granted to the petitioners to clear the goods on a provisional basis. In my judgment, the objection raised on behalf of the respondents is totally misconceived.

3. Accordingly, the following order is passed and the petition is disposed of.

'The respondents to allow clearance of the goods covered by bills of entry, being Exhibits 'C-1' to 'C-7' to the petition on provisional assessment on the basis of invoice value as set out in Exhibits 'B-1' to 'B-7' to the petition and furnishing only a personal bond without bank guarantee for the difference of amount of duty as claimed by the respondents. This order pertains to valuation dispute only. The respondents will be at liberty to continue any departmental adjudication proceedings and pass order. Liberty to the petitioner to challenge the order, when passed by the respondents.'

4. The respondents shall pay the costs of the petitioners.

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