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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-13-2004

Reported in : (2005)(179)ELT322TriDel

Judge : A T V.K., P Bajaj

Appellant : Christelle Violene

Respondent : Commissioner of Central Excise

Judgement :

1. In this appeal, the appellants have contested the demand of Custom duty of Rs. 1,79,999/- raised against her through impugned order.

2. The ld. counsel has contended that the car brought by the appellant to India under the Garnet Scheme without payment of any Custom duty on 8-10-2001, in terms of Notification No. 296/76-Cus,. dated 2-8-1976, is of 1983 model and its assessable value had wrongly determined as Rs. 99,023/- by the authorities below. According to him, its assessable value, could not be more than Rs. 16,000/- as even opined by an Engineer, Surveyor and Loss Assessors, in his certificate dated 10-3-2004.

3. On the other hand, the Id. SDR has reiterated the correctness of the impugned order.

4. We have heard both the sides and gone through the record. The facts are not much in dispute. The appellant brought old and used car of 1983 model

"PEUGEOT" to India on 8-10-2002 without payment of duty under Notification No. 296/76 dated 2-8-76. She could retain the car in India under the said notification for a period of six months, which however, could also be extended by the competent authority to another six months, she availed the extended period also but did not sent back the car. The car was accordingly ordered to be confiscated.

5. The assessable value of the car as Rs. 99,023/- had been arrived at by the authorities below, in our view, without any tangible and concrete evidence. The value of the car declared for the purposes of insurance by the appellant could not be taken as the assessable value for the purpose of Customs duty. The car was never got examined from any automobile expert, no report from the company where the appellant who is French national, bought the car, had been also obtained. The counsel has referred to the certificate issued by Sh. A.K. Deedwania, Engineer, Surveyor, Loss Assessors, wherein the value of the car had been assessed at Rs. 16,000/- by taking into account the make and model of the car. Therefore, keeping in view of all the facts and circumstances, in my view the assessable value of the car has to be arrived at by applying the principle of best judgment. By adopting this principle, in our view the assessable value of the car should be Rs. 25,000/- and the duty should be charged from the appellant, accordingly, on this value.

6. The imposition of redemption fine of Rs. 1000/- and equal amount of penalty on the appellant has not been challenged before us and the same are affirmed.

7. Consequently, the impugned order of the Commissioner (Appeals) is modified by reducing the assessable value of the car to Rs. 25,000/-.

The appeal of the appellant in these terms stands disposed of.