

**R.S. Engineering Works Vs. Cc**

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**SooperKanoon Citation :** [sooperkanoon.com/37467](http://sooperkanoon.com/37467)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Dec-21-2004

**Reported in :** (2005)(98)ECC511

**Judge :** S Kang, Vice-, N T C.N.B.

**Appellant :** R.S. Engineering Works

**Respondent :** Cc

**Judgement :**

2. Appellant filed this appeal against the adjudication order passed by the Additional Collector of Customs. In this case the appellant made import and filed three Bill of Entries by declaring the imported goods as Alloy Steel plates. The declaration is not accepted by the Custom authorities and after getting imported goods tested from the departmental chemical examiner and from IIT the declaration filed by the appellant was not found to be correct. The goods were found to be of stainless steel and not of alloy steel as declared by the appellant.

The goods were of stainless steel which also required license for import. The adjudicating authority held that the goods are classifiable under heading 7315(2) of the Customs Tariff and also confiscated the goods in violation of the EXIM Policy and allowed the goods to be released on payment of redemption fine and penalty of Rs. 9 lakhs was imposed on the appellant.

3. Contention of the appellant is that the customs authorities wrongly held that goods are stainless steel. The contention is that as per the chemical examiner test report dated 29.10.85 the goods were composition of stainless steel of non standard type, It is also pointed out that in the chemical examiner report it is mentioned that the samples are rusty in appearance, the contention is that in the case of stainless steel there is no question of any rust. The contention in respect of report of IIT dated 12.12.85 is that the samples were taken at the back of the appellant and the appellant also relied on sample report supplied by the supplier from Japan where it is mentioned as the consignment of alloy steel plate and any chromium contents were given. The appellant submitted that as per British Steel standard even in the alloy steel the chromium contents can be 17 to 19% and nickel contents be around 8%. The contention is that as per the British Standard the goods in question are only alloy steel and no stainless steel.

4. The contention of the Revenue is that as per the chemical examiner report and of IIT there was a specific mention of chromium And nickel percentage and as per AISI standard this composition is of AISI 304 stainless steel. The report specifically mentioned that samples are of AISI 304 specifications.

5. In this case there are three reports; one is by the departmental chemical examiner who specifically mentioning the contents of chromium is more than 12% and nickel of 7 to 9%. The chemical examiner specifically mentioned that the samples are of stainless steel. The samples were again retested by IIT and vide report dated 12.12.85 it was specifically mentioned that chromium contents 18.82 to 19.58% and nickel 8.34% and the samples were the specification of AISI 304 stainless steel. The appellant never asked for cross objection of the chemical examiner to demolish the case of revenue. As per these reports we are of the view that imported goods are of stainless steel and not alloy steel as declared by the appellant. As per the EXIM Policy as the stainless steel requires a license and cannot be imported without a license. Therefore, we find no infirmity in the impugned order in respect of confiscation of the goods. However, taking into consideration the facts and circumstances of the case, the redemption fine is reduced to Rs. 2 lakhs and penalty is reduced to Rs. 1 lakh.

Otherwise the impugned order is upheld.

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