

General Trade Point Vs. Cc

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Tamil Nadu

Decided On : Mar-04-2005

Reported in : (2005)(101)ECC597

Judge : J T T.K.

Appellant : General Trade Point

Respondent : Cc

Judgement :

1. This appeal has been filed against Order-in-Appeal No. C.Cus.

365/2004 dated 31.5.2004 passed by the Commissioner of Customs (Appeals), Chennai. The issue relates to refund claim. The appellants imported goods known as 'Damar Batu' on payment of duty at 10% Ad valorem under Chapter heading 1301.90. Later he claimed classification under 1302.19. He filed refund claim in view of his claim for a different classification. The refund claim was rejected on the ground that the classification originally done was correct. The appellants went to the Commissioner (Appeals). The Commissioner (Appeals) held that the assessment order itself has not been challenged. When the assessment order is not challenged and has become final, the refund claim is not maintainable. She relied on the following case laws: 2. Shri A.K. Jayaraja, Adv. appeared for the appellants and Shri C.Mani, DR for the Revenue.

3. Ld. Advocate fairly conceded that the case is covered against the appellants in the following decision: Priya Blue Indus. Ltd. v. CC, 4. Since the assessment order has not been challenged it has become final. Under these circumstances, refund claim is not maintainable.

This is established in several decisions. In view of the above findings, the appeal is rejected.

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