Vividh Traders Vs. Commissioner of Customs

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SooperKanoon Citation : sooperkanoon.com/39376

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-16-2005

Reported in : (2005)(187)ELT332Tri(Mum.)bai

Judge : J Balasundaram, Vice-, A M Moheb

Appellant : Vividh Traders

Respondent : Commissioner of Customs

Judgement :

1. The application for waiver of pre-deposit of penalty of Rs. 2 lakhs imposed upon the applicants herein on the ground that they had imported Tin Plate Waste, which required a licence, which the importers did not possess, for the reason that the value declared was less than 465-US$ PMT, which was specified as per Para 2.7 of the Export & Import Policy 2002-07 and import licensing note of ITC (HS) Classification, prescribed under Chapter 72 of the Exim Policy arises out of the order of the Commissioner of Customs.

2. We have heard both sides. The relevant invoice for the goods describes them as "EC Origin Defective and Rejects non alloy steel sheets with tin coating". The contention of the applicants that the coating of tin on non alloy steel sheets will not make them tin plate sheets or waste has prima facie force as we find that goods of the same description have been cleared by customs even when the value is below the value specified, without insisting on licence as seen from Bills of Entry before us. For the above reason, we hold that prima facie strong case for waiver of pre-

deposit has been made out by the applicants and accordingly we waive pre-deposit and stay recovery thereof pending this appeal.