Amit Electronics Vs. Collector of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-10-1987

Reported in : (1989)(42)ELT640TriDel

Appellant : Amit Electronics

Respondent : Collector of Customs

Judgement :
1. The appellants had an Import Licence which included the following goods: - "VIDEO MAGNETIC TAPE IN ROLLS, PAN CAKES, JUMBO ROLLS, REELS, ALL FORMS EXCLUDING VIDEO CASSETTES." The above description corresponded to entry 470(22) of Appendix-5 of the Import Policy for April 1983 to March 1984. Against this licence, the appellants imported the goods which, on examination, were found to be blank tapes on hubs. The lower authority has held that the entry "Video Magnetic Tapes in Hubs" appeared at entry 561(20) of Appendix 3.

Appendix 3 was a list of limited permissible items while Appendix 5 was a list of automatic permissible items. The lower authority has held that since the goods corresponded to the specific entry of Appendix 3 and this specific entry prevailed over the general entry of Appendix 5, the importation made was unauthorised. Further, the lower authority enhanced the price of the goods imported from 25 US Cents to 27 US Cents per 100 ft. He has done so on the ground that comparable imports made by other importers on 15.9.83 & 9.5.84 were priced at 30 and 33 US Cents respectively.

2. We have heard both side and have carefully considered the matter. We find that the Import Licence of the Appellants covered Video Magnetic Tapes in all forms. There was nothing in the licence to suggest that Appendix 3 should be read into the licence and the goods described in Appendix 3 treated as having been excluded from the scope of the licence. We, therefore, find force in the appellants' submission that when the licence said "all forms', it meant all forms. We hold that the importation was validly covered by the licence produced.

3. So far as the value is concerned, we find that the two other imports taken as of comparable goods by the lower authority were actually imports of Video Tapes on Pancakes while the subject importation by the appellants was of Video Tapes on Hubs. Secondly, the lower authority itself has stated in the impugned order that there was a declining trend in prices since middle of 1984. The invoice of the appellants is dated 20.7.84, i.e., the period during which the prices had declined.

The difference in the invoice price (25 Cents) and assessed price (27 Cents) is not a large one. When the prices were declining since the middle of 1984, it is difficult to say that they had declined to 27 Cents and not to 25 Cents. The lower authority itself has concluded that there was no nuns rea on the part of the appellants regarding valuation and no penalty has been imposed on them. In the circumstances, we are inclined to give the benefit of doubt to the appellants and accept the invoice value of the goods.

4. In the result, we set aside the impugned order on both the counts - Import Trade Control as well as Valuation. The appeal is allowed.

Consequential relief should be granted to the appellants.