Commissioner of Customs Vs. Sharda Impex

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Oct-21-2005

Judge : S Kang, Vice-, S T T.V.

Appellant : Commissioner of Customs

Respondent : Sharda Impex

Judgement :
1. When the case was called none appeared on behalf of the respondent inspite of notice, therefore appeal is being taken up in the absence of the respondent.

2. Revenue filed this appeal against the order-in-appeal. In this case the respondent made import of Compact Fluorescent Lamps. The respondent declared the country of origin as Malaysia whereas the revenue was of the opinion that lamps appears to be Chinese origin and are liable to Anti-dumping duty. After going through the evidence produced by the appellant as such certificate issued by the Kaula Lumpur and Selangor Indian Chamber of Commerce and Industry to the effect that the goods are of Malaysia origin and copies of invoices, packing list, country of origin certificate as attested by Third Secretary, Malay-sian Asstt.

High Commission, Madras held that goods in question of Malaysian origin.

3. The only contention of the revenue is that the respondent vide letter dt. 22-5-03 admitted that the goods are of Chinese origin, therefore, the respondent cannot claim that goods are of Malaysian origin, 4. We have gone through the letter dt.

22-5-03. In this letter the respondent specifically stated that they had placed order for supply of lamps of Malaysian origin and if on examination the goods appears to be of Chinese origin, therefore, they are not interested in release of the goods and they requested for permission to re-export the goods back to the Malaysian suppliers. In the letter, the respondent nowhere admitted that goods were of Chinese origin. The respondent produced the invoice and the packing list and other documents attested by Malaysian High Commission which shows that goods are of Malaysian origin. In these circumstances, we find no infirmity in the impugned order, the appeal is dismissed.