

Reliable Impex Vs. Commissioner of Cus.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Feb-20-2006

Judge : A Wadhwa, S T S.S.

Appellant : Reliable Impex

Respondent : Commissioner of Cus.

Judgement :

1. Vide his impugned order, the Commissioner of Customs has confiscated the consignment of Synthetic Warp Knitted Pile Fabrics imported by the appellants on the finding of undervaluation with an option to them to redeem the same on payment of redemption fine of Rs. 1.25 lakhs.

Personal penalty of Rs. 12,000/- has also been imposed under the provisions of Section 112 (a) of the Act.

2. After hearing both sides, we find that the appellants declared the goods as "Synthetic Warp Knitted Pile Fabrics". The revenue's grievance is that no mention about the fact as to whether the same were two way stretch or four way stretch was made in the bill of entry. However, the goods were examined and the opinion of Textile Expert was taken. It was found that 80% of the goods were two way stretch fabrics and 20% was four way stretch fabrics. Accordingly, it was proposed to enhance the value of four way stretch fabrics to US \$ 2.40 per metre as against the value of US \$ 1.20 per metre, declared by the importer.

3. The appellant's grievance is that the goods are stock lot, which is evident from their packing list, which shows the same to be of different lengths, different colours, etc. As such, even if 20% of the goods have been found to be four way stretch fabrics, their value cannot be enhanced. The contemporaneous imports relied upon by the revenue is only for four way stretch fabrics and not for a mixed lot.

4. After hearing the Id. DR. we agree with the above contention of the Id. Advocate. If in a consignment of mixed lot fabrics, few are found to be four way stretch fabrics, the value of the same cannot be enhanced by adopting the value of a consignment, exclusively consisting of four way stretch fabrics. The order passed by the Commissioner cannot be sustained. The same is accordingly set aside and appeal allowed with consequential relief to the appellants.

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