Cc Vs. Essel Marmo Pvt. Ltd.

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SooperKanoon Citation : sooperkanoon.com/44795

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-09-2007

Reported in : (2007)(118)ECC98

Judge : S Kang, Vice

Appellant : Cc

Respondent : Essel Marmo Pvt. Ltd.

Judgement :
1. Heard ld. SDR. None appeared on behalf of the respondent. The Revenue filed this appeal against the impugned order whereby redemption fine is reduced from Rs. 4,50,000/- to Rs. 70,000/- and penalty is reduced from Rs. 1,50,000/- to Rs. 30,000/-. The Revenue is against the reduction of redemption fine and penalty.

2. In this case, imported goods were found misdeclared in respect of description and quantity. The authorities below held that the goods in question are restricted items as per Import Export Policy, therefore are liable for confiscation.

3. The contention of the Revenue is that the adjudicating authority after taking into consideration the margin of profit on the imported goods imposed redemption fine of Rs. 4,50,000/- and penalty of Rs. 1,50,000/-. The Commissioner (Appeals) in the impugned order without taking into consideration the margin of profit reduced the penalty.

4. I find that the adjudicating authority after conducting a market enquiry come to the conclusion that there was margin of profit of Rs. 4,49,973.45. This fact is not considered by the Commissioner (Appeals) in the impugned order while reducing the redemption fine and penalty.

In these circumstances, as the adjudicating authority imposed redemption fine after taking into consideration the profit of margin on the imported goods, I find merit in the contention of the Revenue. The impugned order is set aside and order passed by the adjudicating authority is restored. The appeal is allowed.