

Rukhma Devi and anr. Vs. Collector of Customs and Central

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-15-1990

Reported in : (1991)(36)LC63Tri(Delhi)

Judge : G Agarwal, J T P.C.

Appellant : Rukhma Devi and anr.

Respondent : Collector of Customs and Central

Judgement :

1. All these four appeals are directed against the common Order-in-Original No. 6/88 dated 11.7.1988, whereby the Collector had ordered for the absolute confiscation of the seized gold and foreign currency and also imposed various penalties upon all the four appellants.

2. At the outset it was argued by Shri A.L. Mathur, learned Consultant for the appellants that from the Order-in-original sent to the appellants it would appear that it was passed on 11.7.1988 by Shri B.C.Rastogi, Collector of Central Excise & Customs, Jaipur, whereas he had relinquished the charge of Collector of Central Excise & Customs, Jaipur on 27.5.1988. Consequently, the impugned order passed by Shri B.C. Rastogi was without jurisdiction.

3. It may be recalled that along with these four appeals four stay applications were also filed for dispensation of the requirement of the pre-deposit and amount of penalty and on 10.5.1989 it was contended by Miss Renuka Mann, learned SDR

that the date 11.7.1988 was the date of issue of the Order.

4. Now Shri R.M. Ramchandani, learned SDR is in possession of the original case records received by him from the Collectorate office Jaipur. He submits that along with the case records he has also received a letter dated 18.5.1989 from the Additional Collector stating that draft of the Order-in-Original under reference was approved by Shri B.C. Rastogi on 24.5.1988 when he was holding the charge of Jaipur Collectorate in addition to Delhi Collectorate. He relinquished the charge of Jaipur Collectorate only on 27.5.1988 and "it appears that the delay in issuing the adjudication order was on account of delay in typing out and despatch of the fair order".

5. We have considered the submissions. From the admitted position it is emerged out that Shri B.C. Rastogi relinquished the office of Collector of Central Excise & Customs, Jaipur on 27.5.1988 and the Order-in-original is dated 11.7.1988 and the dispute is regarding as to whether it was actually passed on 11.7.1988 or it was issued on 11.7.1988 after being approved by Shri B.C. Rastogi when he was holding the charge. It was the contention of Shri A.L. Mathur, learned Consultant that effective personal hearing was not granted. Needless to state that from the copy of the impugned order filed along with the appeals we find that there appears the date 11.7.1988 as the date of passing the adjudication order. It does not say that it was issued on 11.7.1988. Thus, giving the benefit of doubt we allow all the four appeals by remand to meet the ends of justice.

6. In the result the impugned order is set aside and all these matters are remanded to the Collector of Central Excise & Customs, Jaipur for passing fresh order after hearing the appellants.

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