

Dr. A.H. Rizvi Vs. Collector of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Sep-07-1994

Reported in : (1994)(74)ELT454TriDel

Appellant : Dr. A.H. Rizvi

Respondent : Collector of Customs

Judgement :

The appellant, a Skin Specialist, imported a V.W. Passat GLD car (1980 Model). The appellant bought the said car from Volkswagon, Munich. The said car was being used by Volkswagon for about 20 months as a demonstration and odd job car. The appellant bought the same on 10-8-1982 on "as is arid where is basis" for a sum of D.M. 14,605.00.

2. Though the car was originally registered as GLD, however, with passage of time and usage a number of fittings had got damaged and the same were removed and/or replaced with less expensive fittings.

Further, though when the car was bought, it was, fitted with a Blanpunct Radio Cassette, the same was removed subsequently by the appellant even before the car was imported. Similarly, the air-conditioner fitted in the car was also removed by the appellant after it was purchased (but before it was imported into India). Since it was causing undue strain on the engine, the cassette and the air-conditioner were not imported by the appellant and were left abroad. On its import, the car was originally assessed at a value of Rs. 44,403/- after allowing a 15%

trade discount and 33% depreciation on account of the use of the car. An ad hoc depreciation of Rs. 3,000/- was allowed by the Dock staff. Consequent to the representations made by the appellant, the Assistant Collector vide his order dated 25-7-1983, granted a further reduction of Rs. 2,000/- and computed the assessable value of the car at Rs. 39,403/-. The Asstt. Collector while rejecting the claim of the appellant that the car should be assessed on the basis of an ordinary model and not on the basis of a delux model, inter alia, held as under : (i) merely because air-conditioner and radio cassette were found missing in the car showing cavities, therefore, the car does not cease to be a GLD Passat.

(ii) for the purpose of assessment, fixtures like air-conditioner and radio cassettes are not to be taken into account.

3. Aggrieved by the aforesaid order of the Assistant Collector, the appellant filed an appeal before the Collector of Customs (Appeals), Bombay reiterating various submissions made before the learned Assistant Collector. The learned Collector (Appeals) rejected the appeal filed before him vide his Order-in-Appeal No. S/49-159/83-VL, dated 15-12-1984.

4. Shri Madhav Rao, Ld. Counsel for the appellant, submitted that the lower authorities should have taken the actual purchase value of DM 14,605 as the starting point from which abatement on account of absence of air-conditioner, radio cassette and replacement cost of tinted glass should have been given. Thereafter, discount and depreciation should be given to arrive at the assessable value. Alternatively, the Id. Counsel pleaded, the value of DM 12,800 for ordinary model should be taken and valuation arrived at after granting discount and depreciation.

5. Ld. D.R., Sh. Singhal, referred to Tribunal decisions in 1990 (47) E.L.T. 614 - Agnihotri v. Collector of Customs to say that when manufacturer's invoice for the car is not produced, the Department can rely on World car catalogue and price list for determining assessable value under Section 14 of Customs Act, 1962. In the present case, valuation has been done without accessories and additional allowance has also been given on re-examination.

6. The submissions made by both the sides have been carefully considered. Examining the rival contentions, it is well-settled that imported goods have to be assessed to duty in the condition in which they are imported. Admittedly in this case the car is a used one and has been imported without the air-conditioner and radio cassette. These are standard and not optional accessories in the Delux model. There is also the fact that certain items like glass windows having been broken & replaced. When this is so, there is a lot of force in the submission that the standard fittings of the deluxe model car being admittedly absent at the time of import, then regard should be had to the condition of the car and other aspects of its import. That the Assistant Collector had also, on examination, found it a fit case for granting further ad hoc rebate is also in this context significant.

Accordingly, having regard to the facts and circumstances of the case, and considering that this is a case of import of an admittedly used car by an individual, it is directed that the assessable value of the car be reassessed allowing from the price of DM 14,605 abatement for the accessories not found fitted (viz. the air-conditioner, radio cassette) and also abatement on the cost of replacement of defective glass window on the following lines as in the appeal records.

"ASSESSMENT CLAIM (II) Price at which car bought in Germany DM 14,605
Abatement for items removed Audio cassette DM 800 AC DM 3000 Replacement
of tinted glass DM 800 Reduction due to structural defect in the shape DM 4,850
of glass door of rear window DM 250 -- Less : 15% Trade discount DM 1463 Less :
33% Depreciation DM 2736 DM 5,556 Add : Freight & Insurance DM 1,983.56
Converted into Rupees Rs. 29,581.55"

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