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Mysore Breweries Ltd. Vs. Collector of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Nov-23-1994

Reported in : (1995)(76)ELT89TriDel

Appellant : Mysore Breweries Ltd.

Respondent : Collector of Customs

Judgement :

1. The application herein is arising out of the impugned order of the Collector of Customs, Madras by which he had finalised the provisional assessment as regards the assessable value of the goods imported, namely, hops, and also adjudicated the matter ' and levied redemption fine on the goods. The learned Counsel referred to the demand notice issued in this case by the Customs House which reads as follows :- "Bill of entry finally assessed as per Collector's order on adjudication the value of the consignment fixed as DM 97200 (CIF) as against the declared value of DM 57706 (CIF). The goods are liable for confiscation under Section lll(d) of the Customs Act, 1962. The goods were allowed provisional clearance. You have undertaken to pay a fine and penalty and also executed a bond for the above said purpose. The Collector, therefore, quantified the redemption fine as Rs. 5,00,000/- (Rupees five lakhs only) in view of confiscation which has to be paid by you against the bond executed. As per final assessment, excess duty collected is Rs. 2,87,623/- which is refundable. However, redemption fine of Rs. 5,00,000/- is payable.

After adjusting excess duty towards redemption fine, total short collection is Rs. 2,12,377/- demanded." The learned Counsel submitted that the duty stands already paid in full and as regards the redemption fine he pleaded that this is a fit case for the Tribunal to exercise its inherent powers for staying the recovery of redemption fine. He relies upon the case reported in 1994 (70) E.L.T. 389 (Tribunal) in the case of Gillorm Gauri Sankar v.Collector of Central Excise, Patna. The learned Senior Departmental Representative submitted that the Customs House is seeking to recover the redemption fine in terms of the bond executed at the time of provisional assessment, and while doing so, has adjusted the duty amount. The short fall in the amount of redemption fine is being recovered by the present notice.

2. We have carefully considered the submissions made by both the sides and we have perused the grounds on which the Customs House is ; seeking the recovery of the amount of redemption fine as extracted above. We also note that the duty in this case pre-deposit with which Section 129E is concerned, stands paid. In these peculiar circumstances, as a special case, we are satisfied that the Tribunal will be justified in the facts of this case, to grant stay in respect of redemption fine following the ratio of the case law cited and relied upon by the learned Counsel. Ordered accordingly.

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