

Vst Industries Ltd. Vs. Joint Secretary to Govt. of India (Rev)

Vst Industries Ltd. Vs. Joint Secretary to Govt. of India (Rev)

SooperKanoon Citation : sooperkanoon.com/821483

Court : Chennai

Decided On : Jul-18-2001

Reported in : 2002(142)ELT30(Mad)

Judge : V.S. Sirpurkar, J.

Acts : [Customs Act, 1962](#) - Sections 129DD and 130D

Appeal No. : Writ Petition Nos. 15309 and 18864 of 1993 and 1179 of 1994

Appellant : Vst Industries Ltd.

Respondent : Joint Secretary to Govt. of India (Rev)

Advocate for Def. : Ravi Anandapadmanabhan, SCGSC

Advocate for Pet/Ap. : R. Sashidharan, Adv.

Judgement :

ORDER

V.S. Sirpurkar, J.

1. There was a corrigendum issued, by which, it was directed that the word 'not' in the order dated 5-3-1991 passed by the Joint Secretary to the Government of India in the last paragraph should be read as 'now'. That corrigendum is challenged in W.P. No. 18864 of 1993. Mr. Sashidharan does not press this writ

petition and agrees that the word 'not' is not correct, but should have been 'now'. W.P. No. 18864 of 1993 is, therefore, disposed of.

2. The matters, however, do not stop there. Unfortunately, when the word 'now' is substituted in place of the word 'not' then the order dated 5-3-1991 becomes a remand order. Under Section 129DD of the [Customs Act, 1962](#), there cannot be a remand, and there can only be the annulment or modification. Realising this, both the parties urge that in order to save time and in order to put the matters on right track, the authority, who wrote the order dated 5-3-1991 being the joint Secretary to the Government of India, should himself be directed to dispose of the matter.

3. In the remand order, the authority had directed the Assistant Collector only to examine whether the other ingredient in Section 74 of the Act was satisfied after recording a finding that the only point raised and considered before the Assistant Collector was pertaining to the identification of goods under Section 74 of the Act. The remanding authority then went on to say that it was not proper to raise entirely different point regarding the applicability of Section 75 of the Act to the issue. It, thereafter, went on to hold that, the Assistant Collector who had only considered the question of identification should also consider the other ingredients in Section 74 of the Act. The only substitution that the parties are agreeing is that instead of the Assistant Director being directed to do that, the Joint Secretary himself should do the same. If that is done, then there will be no question of proceeding ahead with W.P.No. 1179 of 1994.

4. W.P. No. 15309 of 1993 will have to be disposed of only with a direction that the return or drawback would depend upon the order passed by the Joint Director. We are fixing the time limit of six months for enabling the Joint Secretary to pass the Order. W.P, No. 15309 of 1993 is also, therefore, disposed of. The time schedule directed shall be strictly adhered to since the matter is pending for the last ten years.