

Embarkation Headquarters Vs. Collector of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-01-1983

Reported in : (1983)LC530DTri(Delhi)

Appellant : Embarkation Headquarters

Respondent : Collector of Customs

Judgement :

1. This revision petition has been received by transfer from the Central Government. It has been registered as an appeal.
2. One hundred and thirty-five cases of Grease Tsiatim-203 were imported from USSR. Bill of Lading No. 191 placed on the file indicates this. The goods were cleared at Bombay port under Bill of Entry No. 12 of 2nd August, 1974. Customs duty was duly paid by the appellant before the goods were released.
3. The appellant made an application for the refund of excess duty paid to the Assistant Collector of Customs submitting that only 47 cases of grease belong to the Air Force and, therefore, customs duty was payable by the appellant only on these cases. About the remaining 88 cases, it is contended that the duty should be charged from the Naval authorities. The prayer of the appellant was not granted by the Assistant Collector. He accordingly dismissed the application vide his order dated 23rd July, 1976. An appeal was then preferred before the Appellate Collector of Customs, Bombay. The same points were urged before the Appellate Collector. The Collector had demanded the invoice for the balance cases

(numbering 88). In spite of the time granted, the invoice for these cases was not produced. Ultimately, the appeal was dismissed by the Collector on 13th June, 1977.

4. The appellant still felt dis-satisfied with the decision and asked for refund of Rs. 22,734.79 on the ground that the Air Force was required to pay customs duty only on 47 cases and that for the remaining 88 cases, the duty should have been charged from the Naval authorities.

5. The representative of the appellant was asked to show us the invoice regarding the 88 cases. He has not been able to produce the same. It is conceded by him that the entire consignment of 135 cases was got cleared by the appellant and the whole duty payable was paid by them.

It is, however, contended that the Air Force had indented only for 47 cases and that the remaining cases of grease were required by the Navy, and, therefore, the Naval authorities are liable to pay customs duty on their requirements. We have seen the Bill of Lading. The consignee there is the appellant. The goods were also got cleared by the appellant after necessary assessment had been made. The Customs Officer must have satisfied himself after seeing both the invoices, i.e. the invoice for 47 cases and the other invoice for 88 cases.

6. What happened after the clearance was not the concern of the customs authorities. Their duty ended when the goods were cleared after the payment of customs duty. We do not find any infirmity in the orders of the officers below, especially when the appellant failed to produce the relevant documents. The withholding of the material documents i.e. the invoice for 88 cases raised a very strong presumption against the appellant as it will be presumed that the said document, if produced, would have gone against the appellant.

7. We have thus no hesitation in upholding the order of the Appellate Collector. The appeal is accordingly dismissed.