Cc, Chennai Vs. M/S. Shri Jai Durga Import (P) Ltd.

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SooperKanoon Citation : sooperkanoon.com/941681

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Chennai

Decided On : May-11-2010

Judge : The Honourable Ms. Jyoti Balasundaram, Vice President &Amp; the Honourable Dr. Chittaranjan Satapathy, Technical Member

Appeal No. : C/22 of 2004

Appellant : Cc, Chennai

Respondent : M/S. Shri Jai Durga Import (P) Ltd.

Advocate for Pet/Ap. : Shri C. Rangaraju, SDR, for the appellant. Shri S. Krishnanandh, Adv., for the respondent

Judgement :

Per: Jyoti Balasundaram

The Additional Commissioner of Customs had confiscated the goods declared as One step pregnancy test single pack imported by the respondents herein from China on the ground of mis-declaration of description and mis-declaration of value of the goods as it was found that the description on the single pack was One step HCG Urine Pregnancy test strip and that identical goods had been supplied by the same supplier from the same country of origin at the unit value of US$0.075 per piece, which was higher than the value declared by the importers, with an option to redeem the same on a fine of Rs. 5000/- and had imposed a penalty under the provisions of Section 112 (a) of the Customs Act, 1962. The Revenue went in appeal to the Commissioner (Appeals) on the ground that Section 114A of the Customs Act, 1962, ought to have been invoked and this Section would make the importer liable to penalty equivalent to the duty sought to be evaded. The Commissioner (Appeals) rejected the plea of the revenue on the ground that there was no proposal initiated before the lower appellate authority for imposition of penalty under Section 114A. There was no proceedings contemplated under Section 114A of the Customs Act, and therefore, Revenue could not seek to invoke the above provision for the first time in the appeal proceedings. Hence, this appeal by the Revenue.

2. We find no reason to interfere with the impugned order which is in accordance with law. Hence, we uphold the impugned order and reject the appeal.