Suresh Kumar Vs. Collector of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : May-23-1996

Reported in : (1996)(87)ELT667TriDel

Appellant : Suresh Kumar

Respondent : Collector of Customs

Judgement :

1. Appellant is absent in spite of notice of hearing. We have heard Mrs. Ruchira Pant, SDR and perused the papers.

2. On 26-5-1988 appellant who was abroad and returned to India, imported 1983 model Datsun Bluebird Station Wagon (plain model) purchased from a diplomat who had purchased the new car. The appellant has not stated what value, if any, he had declared at the Custom House.

The copy of the Bill of Entry produced before us would show that he did not write the value in the Bill of Entry and the only figure written there was the value arrived at by the Assistant Collector. The appellant did not produce manufacturer's invoice. The Assistant Collector took the manufacturer's price list price for Deluxe model, reduced the price by 15% since the imported car was a plain model, gave 46% depreciation for 4 years and 9 months, gave ad hoc depreciation for damages and arrived at the value of Rs. 53,847.00. He also separately assessed the value of air-conditioner and radio cassette. In appeal, Collector (Appeals) directed additional depreciation of 4% to be granted and also marginally reduced the value of the air-conditioner.

3. The appellant claims deduction of diplomatic discount said to have been granted to the original purchaser, additional depreciation and further deduction in the price on account of model being plain.

Considering the age of the car, appellant was entitled to 52% depreciation as against 46% and 50% respectively allowed by the two lower authorities. There is no evidence that any diplomatic discount was being granted to all customers. Therefore, no deduction can be given on that account. The manufacturer's price list showed the price not of plain model but of Deluxe model. The Collector (Appeals) was inclined to agree that the 15% deduction from the price allowed by the Assistant Collector was arbitrary and blamed the importer for not furnishing particulars. This approach would absolve the Custom House of all responsibility in the matter. At one stage, we were inclined to remand the matter directing the lower authorities to find out the difference between the actual price of the plain model and the Deluxe model, but considering the fact that the import was made in 1988, we thought it was not appropriate to postpone the final decision further.

Having .regard to all the circumstances, we direct that the price of plain model should be arrived at by deducting 20% and not 15% from the price of the Deluxe model.

4. The impugned orders are modified by directing depreciation to be granted at 52% of the base price to be determined by reducing the price of Deluxe model by 20%. Appeal is allowed in part as indicated.