icim Ltd. Vs. Commissioner of Customs

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SooperKanoon Citation : sooperkanoon.com/9699

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jul-04-1996

Reported in : (1998)(100)ELT373Tri(Mum.)bai

Appellant : icim Ltd.

Respondent : Commissioner of Customs

Judgement :

1. By the order impugned in the appeal, it has been held that controller cards imported with Winchester Disc Drive fall under Appx.

2B of the Import Policy 1985-88 and therefore required a licence for its importation.

2. It is claimed in the appeal that the invoice description includes controller cards and that the goods were cleared under concessional rate of duty on the basis of a certificate granted by the Department of Electronics. In the certificate, the department has treated the Winchester Disc Drive and Controller Card as a single unit and the value of the Controller has been included in the value of the Winchester Disc Drive. In support of its contention the judgment 'of the Supreme Court in Hindustan Steel Ltd. v. The State of Orissa reported in AIR 1970 SC 253 (SC) is cited.

3. We are not able to agree that the Department of Electronics has certified the import of controller cards, in the absence of material to show that the Department

of Electronics was told by the appellant while applying for the certificate that controller cards would also be imported. Mere inclusion of the price by itself would not support the appellant's contention. The judgment cited by the appellant relates to imposition of penalty and is irrelevant to the facts of the present case, where penalty has not been imposed. Goods are therefore liable to confiscation. However, taking into account the fact that the appellant was an actual user, we reduce the fine from Rs. 43,000/- to Rs. 22,000/- (Rupees Twenty two thousand only).