(1997) 07 SC CK 0060

In the Supreme Court Of India

Case No : Civil Appeal No''s. 2625-26 of 1991

Ajanta Offset and Packaging Ltd. APPELLANT

Vs

Collector of Customs, New Delhi and Others RESPONDENT

Date of Decision : 31-07-1997

Acts Referred:

Customs Act, 1962 — Section 157, 25(1), 46
Customs Tariff Act, 1975 — Section 3

Citation : (1998) 79 ECR 736 : (1997) 94 ELT 443 : (1998) 7 JT 549 : (1998) 9 SCC 125

Hon'ble Judges : S. C. Agrawal, J;G. T. Nanavati, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The only question that falls for consideration in these appeals is whether the appellants can claim the benefit of concessional rate of customs duty under Tariff Head 84.66 in the First Schedule to the Customs Tariff Act, 1975.

2. The facts, in brief, are as follows:

The appellants entered into a contract on 17-12-1982 with M/s. Kohli Graphic Systems, the Indian agent of the German Supplier, M/s. Dr Ing Rudolf Hell GMBH, for the import of Chronograph C-399 colour scanner. Under the terms of the contract the equipment was to be initially imported on behalf of the supplier for display in Pamex Exhibition to be held at New Delhi in January 1983 and after closure of the exhibition it was to be cleared for delivery to the appellants after completion of customs formalities. The equipment was imported by M/s. Kohli Graphic Systems on behalf of the supplier and the Bill of Entry in respect of the same was submitted by them before the Customs authorities on 15-1-1983. The goods were cleared without paying any customs duty on the basis of Notification No. 116/79 dated 1-6-1979 issued u/s 25(1) of the Customs Act, 1962 wherein goods imported into India in connection with any fair, exhibition, demonstration, seminar, congress and conference are exempted from the whole of the duty of customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and the additional duty of customs leviable thereon u/s 3 of the said Customs Tariff Act. One of the conditions imposed under the said notification was that the importer had to execute a bond to the satisfaction of the Assistant Collector of Customs to re-export the goods within the period of six months from the date of official closure of such fair, exhibition, demonstration, seminar, congress and conference or as the case may be within such extended period as the Assistant Collector of Customs may allow and in the event of failure to re export as aforesaid, to pay the duty which would have been levied thereon but for the exemption contained in the notification. In accordance with the said requirement, the German supplier furnished the necessary bond undertaking to re-export the goods after the exhibition. After the exhibition was over, as per the terms of the said bond, the goods were deposited on 10-2-1983 in the Northern Railway Godown at the Exhibition Ground at New Delhi, which was under the control and custody of the Customs authorities. On 6-6-1983 the contract entered into by the appellants with M/s. Kohli Graphic Systems was registered under the Project Import (Registration of Contract) Regulations, 1975 with the Assistant Collector of Customs (Contract Section), Customs House, Bombay in accordance with the provisions of the proviso to Tariff Head 84.66 of the Customs Tariff Act in order to avail the benefit of concessional rate of customs duty. Thereafter, on 20-6-1983, the appellants filed another Bill of Entry for clearance of the goods which were lying in deposit with the Northern Railway Godown under Tariff Head 84.66. The Assistant Collector of Customs, by his letter dated 23-6-1983, informed the appellants that the benefit of project import could not be given in respect of the goods imported for the Pamex Exhibition and the appellants were directed to revise the Bill of Entry. The appellants submitted the revised Bill of Entry dated 23-7-1983 and cleared the goods after paying the customs duty thereon at the normal rate. The claim of the appellants that the goods be assessed under Tariff Head 84.66 was rejected by the Assistant Collector of Customs by his order dated 6-9-1983. The said order of the Assistant Collector of Customs was set aside on appeal by the Collector of Customs (Appeals) by his order dated 16-5-1984 on the ground that the contract had been registered on 6-6-1983, prior to the clearance of the goods for home consumption against the Bill of Entry filed on 20-6-1983 and the initial clearance under the Bill of Entry on 15-1-1983, being on condition of re-export after display at an exhibition, could not be deemed as clearance for home consumption. The said order of the Collector of Customs (Appeals) dated 16-5-1984 has been reversed by the Customs, Excise & Gold (Control) Appellate Tribunal (hereinafter referred to as "the Tribunal") by the impugned judgment dated 24-4-1991. Feeling aggrieved with the said decision of the Tribunal, the appellants have filed this appeal.

3. A perusal of the proviso to Tariff Head 84.66 shows that for the purpose of availing the benefit of concessional duty under the said proviso the goods must have been imported against one or more specific contracts which have been

registered with the appropriate Customs House in the manner prescribed by the regulations made by the Central Board of Excise & Customs u/s 157 of the Customs Act, 1962 and such contract or contracts have been registered before the order is made by the proper officer of the Customs permitting the clearance of home consumption or deposit in a warehouse. The Project Import (Registration of Contracts) Regulations, 1975 have been made by the Central Board of Excise & Customs in that regard. The contract between the appellants and M/s. Kohli Graphic Systems was registered under the said regulations only on 6-6-1983 but the goods had been imported in the country much earlier in January 1983 and the Bill of Entry in respect of such import had been submitted by M/s. Kohli Graphic Systems to the Customs authorities in 15-1-1983. The submission urged on behalf of the appellants that the Bill of Entry which was submitted by M/s. Kohli Graphic Systems on 15-1-1983 cannot be regarded as a Bill of Entry for home consumption and that the Bill of Entry for home consumption was submitted by the appellants on 20-6-1983 after the contract had been registered has rightly not been accepted by the Tribunal.

4. Section 46 of the Customs Act, 1962 requires that the importer of any goods, other than goods included for transit or transhipment, shall make entry thereof by presenting to the proper officer a Bill of Entry for home consumption or warehousing in the prescribed form. The goods were not intended for transit or transhipment when they were imported in January 1983. The Bill of Entry dated 15-1-1983 presented by M/s. Kohli Graphic Systems was not for warehousing because the goods were to be cleared. The said Bill of Entry must, therefore, be treated to be for home consumption. There could not be a second Bill of Entry for home consumption in respect of the same goods. The appellants cannot, therefore, avail the benefit of concessional duty under Tariff Head 84.66 on the basis of the subsequent Bill of Entry dated 20-6-1983. The Tribunal has, therefore, rightly found that the appellants were liable to pay customs duty at the normal rate in accordance with Notification No. 116/79 dated 1-6-1979 on the basis of which the goods had been imported.

5. We, therefore, do not find any merit in these appeals and the same are accordingly dismissed. No order as to costs.

