(1994) 10 BOM CK 0046

In the Bombay High Court

Case No : Writ Petition No. 1500 of 1986

Banswara Syntex Ltd. APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 10-10-1994

Acts Referred:

Citation : (1995) 57 ECR 206 : (1994) 55 ECR 217 : (1994) 74 ELT 522

Hon'ble Judges : S.M. Jhunjhunwala, J;M.L. Pendse, J

Bench : Division Bench

Advocate : Shri Pankaj Parsurampuria and Mr. D.Y. Chandrachud, for the Appellant; Shri H.V. Mehta, for the Respondent

Judgement

Pendse, J.—The petitioners imported 50 Metric Tons of Egyptian Polyester Staple Fibre at US $ 1.20 per kg. from Egypt. On June 5, 1982, the petitioners filed bill of entry for warehousing. On October 7, 1982 the Customs authorities endorsed on bill of entry that "Ex-bonding is not allowed". The customs authorities referred the matter to SIIB for price verification. By Finance Act, 1983, the Government of India prescribed that in respect of warehousing of goods, the facility will be provided on payment of interest. The petitioners were representing the Customs authorities that the price of US $ 1.20 per kg. was genuine and proper.

2. The petitioners addressed letter dated October 29, 1984 to the Assistant Collector of Customs, inter alia, stating that the petitioners had sold the material to the sister concern M/s. Banswara Fabrics Limited and who will be clearing the same under Duty Exemption Entitlement Certificate. The petitioners requested that the goods should be permitted to be cleared by the sister concern. The request was not accepted and the petitioners were informed on November 22, 1984 that clearance can be granted only on payment of interest at the rate of 16% from October 16, 1983 till the date of clearance. The interest was sought in accordance with the amended provisions. The petitioners then filed the present petition on June 19, 1986 seeking clearance of goods without payment of interest.

3. Shri Parsurampuria, learned counsel appearing on behalf of the petitioners, submitted that the demand for payment of interest is not justified. The learned counsel urged that the provision for payment of interest came into force only on May 13, 1983 and that was subsequent to the date of warehousing of the goods on June 5, 1982. Shri Parsurampuria submitted that the Tribunal had taken the view that levy of interest is not permissible in respect of goods which were warehoused prior to the date of amendment. He also contended that the respondents unjustifiably delayed the release of the goods. Shri Mehta, learned counsel appearing on behalf of the Department, on the other hand, urged that the petitioners were never keen to clear the goods and were waiting for some customer to come forward to clear the goods. Shri Mehta pointed out that the petitioners, on import, had probably no money to clear the goods and the goods were dumped in the warehouse and ultimately the respondents were required to charge dumping duty. Taking into consideration the fact that the petitioners did not think it necessary to approach this Court for a period of four years from the date of import, that itself is sufficient to decline to grant any relief to the petitioners in respect of payment of interest in exercise of writ jurisdiction. In our judgment, it is not necessary to examine whether there is liability to pay interest in respect of goods warehoused prior to the date of amendment providing for payment of interest. We are not inclined to examine that aspect as in our judgment, the petitioners had deliberately delayed clearance for several years.

4. Accordingly, petition fails and rule is discharged with costs.

