(2013) 11 SC CK 0104

In the Supreme Court Of India

Case No : Civil Appeal No. 4234 of 2007

Bharat M. Shah APPELLANT

Vs

Union of India (UOI) RESPONDENT

Date of Decision : 13-11-2013

Acts Referred:
Customs Act, 1962 — Section 111(d)

Citation : (2014) 304 ELT 643

Hon'ble Judges : R.M. Lodha, J;Madan B. Lokur, J

Bench : Division Bench

Advocate : Rajiv K. Garg, P.P Malhotra

Final Decision : Dismissed

Judgement

1. The Commissioner of Customs (Adjudication) (for short "the Commissioner") in his order dated 13-3-2001 with regard to 219 cases of ball bearings confiscated u/s 111(d) of the Customs Act, 1962 (for short "the Act") gave an option to the Appellant to redeem them on payment of fine of Rs. 9.50 lacs u/s 125 of the Act. The Appellant was given time of one month to exercise the option. The Appellant challenged this order before the Customs, Excise & Gold (Control) Appellate Tribunal (for short "the Tribunal"). The Tribunal allowed the Appellant's appeal by its order dated 25-5-2001 2001 (133) ELT 182

2. The Revenue challenged the order of the Tribunal before the High Court. The High Court by the impugned judgment has allowed the petition filed by the revenue and set-aside the order of the Tribunal (2006 (206) E.L.T. 94 (Bom.)). However, the High Court observed that the present Appellant (Respondent No. 2 therein) would be at liberty to redeem the goods as per the order passed by the Commissioner on 13-3-2001.

3. Mr. Rajiv K. Garg, learned Counsel for the Appellant submits that pursuant to the liberty granted by the High Court, the Appellant deposited redemption fine of Rs. 9.50 lacs with the department but the goods were not released on the

ground that the Appellant has to pay the customs duty. learned Counsel submits that the Appellant is not in a position to pay the customs duty and, therefore, he is not desirous of redeeming the goods. He, therefore, prays that the Respondents may be directed to refund the amount of Rs. 9.50 lacs which was deposited by the Appellant towards redemption fine.

4. Mr. P.P. Malhotra, learned Additional Solicitor General agrees and, in our view fairly, that the Appellant may be refunded the amount of Rs. 9.50 lacs which he deposited towards redemption fine since the goods are not being released to him. We, accordingly, dispose of the appeal with the direction that the revenue shall refund the amount of Rs. 9.50 lacs to the Appellant within eight weeks from today. Needless to say that the goods shall remain confiscated u/s 111(d) of the Act and the authority shall be free to take appropriate action in accordance with law in this regard. No costs.