(1995) 03 SC CK 0145

In the Supreme Court Of India

Case No : Civil Appeal No. 2198 of 1988

Commerce International APPELLANT

Vs

Collector of Customs RESPONDENT

Date of Decision : 29-03-1995

Acts Referred:

Customs Act, 1962 — Section 14(1)
Customs Valuation Rules, 1963 — Rule 3

Citation : (1995) 50 ECC 1 : (1995) 77 ELT 20 : (1995) 2 SCALE 581 : (1995) 3 SCC 343 : (1995) 3 SCR 69

Hon'ble Judges : S. C. Sen, J;R. M. Sahai, J

Bench : Division Bench

Advocate : Rajiv Dutta and Vipin Nair, for the Appellant; R.R. Mishra and R.B. Mishra for P. Parmeswaran, for the Respondent

Final Decision : Dismissed

Judgement

1. The only question that arises for consideration in this appeal is whether the Tribunal was justified in applying Rule 3(b) of the Customs Valuation Rules framed u/s 14 of the Customs Act.

2. The appellant filed a Bill of Entry for clearance of 125 cartons of toners declaring the value of the goods at a particular amount on the basis of invoice-cum-value and country of origin certificate issued by M/s. Sangill Ltd. Since the seller was not a manufacturer the Department required the appellant to furnish the price list of the goods under import but the appellant instead of filing the price list stated that they had purchased the goods from a trading company which was not willing to reveal the source of supply. Consequently, the Department obtained export price list from M/s. Coates Electrographic Limited. After examining the price list of M/s. Coates Electrographic Ltd., the Collector was of the opinion that it was a case in which Rule 3(a) could not be applied. Therefore, he proceeded to determine the value under Rule 3(b) and on the price list supplied by the manufacturer the valuation of the toner imported by the

appellant was determined. It was held that the value of the goods when compared with manufacturer's price list was much below the normal price in the international market. The goods were directed to be confiscated with an option to clear on Rs. 8 lakhs. Penalty of Rs. 1000 was also imposed. Against this order the appellant approached the Tribunal. The Tribunal found that the Collector did not commit any error in applying Rule 3(b) but reduced the redemption fine from Rs. 8 lakhs to Rs. 5 lakhs. The penalty of Rs. 1,000 was maintained.

3. Section 14(1)(b) of the Customs Act empowers the appropriate authority to determine the value of the imported goods in accordance with provisions contained in Rules 3 to 8. Rule 3(a) provides for determination of value of such goods, with comparable goods produced or manufactured and ordinarily sold or offered for sale to other buyers in India under competitive conditions. Rule 3(b) permits the proper officer to determine valuation on the export price at which such goods or comparable goods are ordinarily sold or offered for sale under competitive conditions to buyers outside India. The determination under Rule 3(b) could be undertaken if the valuation could not be determined under Clause (a). The authorities found that in the nature of goods imported by the appellant the valuation of it could not be determined under Rule 3(a). Therefore, Rule 3(b) was rightly invoked. And the determination having been done on comparable goods offered for sale in competitive conditions in countries outside India the order does not suffer from any error of law. The Tribunal further did not commit any error in relying on the price list supplied by the manufacturer as compared to trading company which refused to divulge the name of the manufacturer.

4. In the result, this appeal fails and is accordingly dismissed. But there shall be no order as to costs.