(2021) 11 CESTAT CK 0082

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Customs Appeal No. 155 Of 2008

Commissioner Of Customs And Central Excise APPELLANT

Vs

Chowgule Education Society RESPONDENT

Date of Decision : 29-11-2021

Acts Referred:

Citation : (2021) 11 CESTAT CK 0082

Hon'ble Judges : Ashok Jindal, J;C.J. Mathew, Technical Member

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Revenue is in appeal against the impugned order wherein Learned Commissioner (Appeals) has allowed the benefit of Notification No. 21/2002-

Cus dated 01/03/2002.

2. The facts of the case are that the respondent imported Machine Tuft/Coated Polyethylene Twisted Grass for soccer field known as â??artificial

grassâ?? and agrifab field sweeper from Canada for laying artificial football ground at Smt. Parvatibai Chowgule Cultural Foundationâ??s College

of Arts & Science, Margao to hold matches of international standards and train players for national and international events. The respondents filed bill

of entry for clearance of the imported goods and sought exemption from customs duty under entry at serial No. 393 of the Notification No. 21/2002-

Cus dated 01/03/2002 for the imported artificial grass. The benefit of the said notification is available with the condition that the requisites for games

and sports if certified by apex body in relation to the concerned game or sport or the Sports Authority of the concerned State, that the requisites for

games and sports are required to be used in a national or international championship or competition to be held in India or abroad. AIFF issued the

eligibility certificate on 04th July 2005 certifying that the artificial turf for football ground imported by the respondent is the requisite for national or

international football championship or competition to be held in India or abroad and will be used for all India national teams to practice before they

proceed for tournaments abroad. It was also certified therein that the eligibility certificate was issued for availing the exemption from payment of

customs duty in terms of condition No. 85 of the said notification. Further, AIFF vide letter dated 4th October 2005 confirmed that the international

championship of the Asian Football Confederation Under-20 Tournament will be held at the artificial football ground. But the adjudicating authority

insisted for a bond with the condition that the respondent within one year or such extended period will furnish such documents as may be called by the

proper officer and will renew the bond and the bank guarantee till the event i.e. national or international football championship or competition to be

held in India or abroad is fulfilled and on demand will pay the differential duty with fine and penalty. The respondent vide letter dated 4th October 2006

intimated that the Society has fulfilled the condition of the notification by holding the national competition match between Indian national senior and

juniors and they requested to cancel the bond and finalise the assessment by extending the benefit of notification. The benefit of notification are denied

and ordered finalization of provisional assessment charging duty holding that the notification is required to be strictly interpreted and onus of fulfillment

of condition of the notification lies on the respondent and respondent has failed to produce the required evidence. It was also held that the national

competition match between national seniors and juniors under -20 cannot be called a national championship or national competition and training

sessions, practice match or exhibition match cannot be taken as national competition or championship. Therefore, the respondent was required to pay

differential duty. The said order was challenged by the respondent before the Learned Commissioner (Appeals) who allowed the benefit of

notification to the respondent against which the Revenue is before us.

3. Learned Authorised Representative drew our attention to the Customs Notification No. 21/2002-Cus at serial No. 393 which stipulates that

exemption available to requisites for games and sports by fulfilling condition No.

85 of the notification. The condition No. 85 is that, if certified by the

apex body in relation to the concerned game or sport i.e. the highest organisation, other than Government, by which the game or sport is controlled or

regulated, or the Sports Authority of the concerned State, that the requisites for games and sports are required to be used in a national or international

championship or competition to be held in India or abroad. It is his submission that the championship was not held in India and the respondent has

failed to produce any evidence on record that any competition of national or international level was conducted at the said turf. Therefore, they are not

entitled to the benefit of notification and the condition of the notification has to be followed strictly. To support this contention, he relied upon in the

case of Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Company [2018 (361) ELT 577 (SC)].

4. On the other hand, Learned Counsel for the respondent supported the impugned order and submits that as per the condition of the notification, there

is no requirement to produce end-use certificate issued by the Sports Authority of the State that the said turf shall be used for the competition or

events or championship to be held in India or abroad. Admittedly the said turf has been used for competition or training or championship to be held

lateron. Therefore, they are entitled for the benefit of the said notification.

5. Heard the parties and considered the submissions.

6. We have gone through the impugned order wherein the Learned Commissioner (Appeals) has examined the issue and observed as under

â??The party's contention is that the assessing officer has gone beyond this condition and has not referred at all to the certificate referred

by them in pursuance of these conditions, this certificate being of July, 4th, 2005. I see that the said certificate has been given by All India

Football Federation which is the apex body of India and I also see that the said certificate has not been referred to at all in the

adjudication order. Legally speaking, this certificate, in itself, is enough and condition No. 85 of the said Notification does not give the

department the powers to impose end-use conditions.

However, the assessing officer, in due diligence towards revenue, has asked for such end-use certificate and the first end-use bond given

was that the Asian Football Confederation under 20 Tournament was to be held on the said grounds in India. Since the same was not held,

the party has submitted two other certificates, one claiming that a match was held between Indian National seniors and Indian National

juniors, and this certificate was considered to be a national competition by the All India Football Federation. I do agree here with the

assessing officer's understanding and ruling that the exhibition match between the juniors and the seniors cannot be treated as a national

competition, since a competition involves playing at various levels and not just an exhibition match.

I however come to the next certificate produced by the party wherein it has been stated that by the All India Football Federation that the

Indian National Football team, after undergoing a months training on the artificial turf, participated in the International White Caps Nation

Cup Football tournament in Vancouver from 18.06,2006 to 15.07.2006. Regarding this certificate, nothing has been mentioned in the

Order-in-Original but I do examine this certificate. The first question herein would be whether just preparatory work within India on this

artificial turf was enough for getting the benefit of this Notification. I find substance in the appellant's submission that the Notification has

talked about National and International events in India and abroad. The very use of the word abroad would mean that the preparatory

work would be done in India whereas the International championship/ tournament would be held abroad. Rightly as pointed out by the

assessing officer an International championship/tournament would have participants from various countries. The appellants submitted a

downloaded version of the Rediff.com. site on this issue, the relevant portion of which is reproduced below:

S. Venkatesh will lead India in its first international under new coach Bob Houghton at the White Caps Nation Cup Football tournament in

Vancouver, Canada from July 17.

His appointment comes following Baichung Bhutia ""s request to be relieved of India duty.

Venkatesh will skipper a 20-member team in the tournament that includes matches against local outfit Vancouver City Club, Cardiff City

Club from England and a Chinese Under 20 side.

On perusal of the above, it is seen that this tournament had participants from Vancouver in Canada Cardiff City Club from England, China

and the national side from India. As such it does qualify as an International Under-20 tournament/competition.

The arguments by the party that the Notification does not prescribe any time limit are also important I would Sites to mention hereunder that

all the above arguments are in addition to the legal requirements which are only for a certificate of the All India Football Federation, and

no requirements for an end-use condition. The department has gone beyond the legal requirements and I have examined herein above

where, even going beyond these legal requirements, the end-use conditions were fulfilled and I find them to be so.â??

7. On going through the observations made by Learned Commissioner (Appeals), we find that as per the condition there is no requirement by the

respondent to produce end-use certificate. The only condition is that, if such goods are imported requires to be used in national or international

championship to be held in India or abroad. Therefore, the certificate issued by the AIFF is suffice to fulfill the condition of the notificaition and there

is no ambiguity in the said condition. Therefore, the case law relied upon by the Learned Authorised Representative in the case Dilip Kumar &

Company (supra) is not applicable to the facts of the case. Further, we do not find any infirmity with the impugned order.

8. In view of this, the impugned order is upheld and the appeal filed by Revenue is dismissed.

(Operative Part of the Order Pronounced in open court on 29/11/2021)