

(1983) 11 BOM CK 0015

In the Bombay High Court

Case No : Writ Petition No. 1293 of 1979

D. Navinchandra and Co.

APPELLANT

Vs

K.V. Seshadri, CCI and E

RESPONDENT

Date of Decision : 11-11-1983

Acts Referred:

Citation : (1989) 40 ELT 320

Hon'ble Judges : M.L. Pendse, J

Bench : Single Bench

Judgement

1. The controversy in this petition stands concluded by my decision dated November 26, 1982 in Misc. Petition No. 1458 of 1979 Narendra Mafatlal Mehta v. Union of India. In view of that judgment, the rule in this petition is also required to be made absolute and the orders dated August 16, 1978 and October 25, 1978 are quashed and set aside. The respondents are directed to issue to the petitioner Export House Certificate under the Import Policy of April 1978 - March 1979 within a period of one month from today. The grant of Export House Certificate would entitle the petitioners to seek certain facilities as provided by paragraph 174 of the scheme. As the time for making the application for additional licence has already expired, it is directed that in case the petitioners make an application within a period of three months from the date of grant of Export House Certificate, then the respondents shall consider it on merits and do the needful. In the circumstances of the case, there will be no order as to costs.

2. Shri Sethna, learned counsel appearing on behalf of the department, submitted that even though the petitioners have been granted Export House Certificate, the petitioners should be directed to make import only in accordance with the provisions of law as existing on the date of actual import. The learned counsel sounded an apprehension that certain items which could be imported in 1978-79 may have been banned items in the import policy of 1983-84, and the petitioners would not be able to import the said items. It is undoubtedly true that if any item is banned in accordance with the import policy of 1983-84, then the

petitioners would not be able to import that item even though it was not so banned in the year 1978-79. Shri Sethna also submitted that the petitioners should not be permitted to import items which are canalised items under the Import Policy of 1983-84. I am not impressed by the submission. The canalised items are not banned items and there is no reason why the petitioners should be compelled to approach the canalising agency for import of the same when such items were not canalised during the years 1978-79. The merit fact that the petition remains pending for over several years should not cause prejudice to the petitioners. In spite of the fact that more than a year had lapsed from the date of my judgment in the petition mentioned hereinabove, the respondents have not cared to grant certificate to the petitioners. The Court cannot permit prejudice to the parties merely because the petition remains pending in the Court for reasons over which the Court has no control. In my judgment, the petitioners would not be entitled to import only those items which are specifically banned under the Import Policy prevalent at the time of import.