

(2015) 09 SC CK 0024

In the Supreme Court Of India

Case No : Civil Appeal Nos. 3891-3892 of 2006.

Gupta Steel - Appellant @HASH Commissioner of Customs, Jamnagar

Date of Decision : 02-09-2015

Acts Referred:

Citation : (2015) 324 ELT 29

Hon'ble Judges : A.K. Sikri and Rohinton Fali Nariman, JJ.

Bench : Division Bench

Advocate : S/Shri M.P. Devanath, Vivek Sharma, S. Vasudevan, Hemant Bajaj, Anandh K., Aditya Bhattacharya, R. Ramachandran and Ms. L. Charanaya, Advocates, for the Appellant; Ms. Nisha Bagchi, S/Shri C. Mukund, Vivek Anandh, Ms. Sunita Rani Singh, Sujeeta Srivastava and B. Krishna Prasad, Advocates, for the Respondent

Final Decision : Allowed

Judgement

1. The appellant herein is engaged in business of ship breaking. It was a sole proprietorship concern of one Mr. Shivchand Gupta. He was operating from Bhavnagar, Gujarat. The appellant entered into Memorandum of Agreement (MoA) dated 23-8-2000 with the owner of one vessel for import of the said vessel for the purposes of breaking the same. Few days thereafter, another MoA dated 30-8-2000 was signed which was, in fact, an amendment to the first MoA. By this amendment, the price which was reflected in the earlier MoA was marginally reduced. The ship arrived and thereafter, Bill of Entry was filed by the appellant on 1-9-2000 disclosing the price which was agreed to be paid by the appellant to the owner of the vessel as per the revised MoA dated 30-8-2000. The assessment was done on that basis and assessment order dated 18-3-2002 was passed by the assessing officer accepting the value mentioned in the Bill of Entry. The Revenue filed the appeal against the order of the assessing officer contending that the value mentioned in MoA dated 23-8-2000 should have been the valuation for the purpose of levying the import duty. This appeal was allowed by the Commissioner and the order of the Commissioner has been upheld by the Customs, Excise and Service Tax Appellate Tribunal (hereinafter referred to as "CESTAT"). Challenging that order, the present appeal is preferred by the

appellant.

2. After going through the facts of this case and the manner in which the first MoA dated 23-8-2000 was amended by MoA dated 30-8-2000, we find that the price was genuinely revised and a lesser price was agreed to be received by the owner of the vessel and therefore, there was nothing wrong on the part of the appellant to declare that price in the Bill of Entry. We, thus, are of the opinion that the duty should have been assessed on the basis of value declared by the appellant and the assessment made on 18-3-2002 by the assessing officer did not call for any interference.

3. We, thus, set aside the order of the CESTAT and allow this appeal.

Civil Appeal No. 3892 of 2006

4. In view of the aforesaid order in Civil Appeal No. 3891 of 2006, this appeal stands allowed.