

(2015) 08 SC CK 0026

In the Supreme Court Of India

Case No : Civil Appeal No. 2517 of 2006.

**Jagson International Ltd. - Appellant @HASH Commissioner of Customs,
Chennai**

Date of Decision : 20-08-2015

Acts Referred:

Citation : (2015) 323 ELT 243

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

Bench : Division Bench

Advocate : S/Shri. S.K. Bagaria, Senior Advocate, K. Ajit Singh, Sanjeev Mahajan and Ms. Prerna Mehta, Advocates, for the Appellant; S/Shri. Jaideep Gupta, Senior Advocate, P.K. Mullick, Mrs. Nisha Bagchi, Ms. Aruna Gupta, Ms. Sujeeta Srivastava and B. Krishna Prasad, Advocates, for the Respondent

Final Decision : Allowed

Judgement

1. The appellant herein had imported one single "Deepsea Matdrill" and parts thereof. A Bill of Entry was filed for the aforesaid item under Heading 8905.20. The benefit of full exemption from payment of customs duty was sought for under Notification No. 133/87. The respondent/Department, however, did not release the goods on the basis of the said classification. Before any adjudication could take place about the classification of the imported goods, the appellant filed a suit bearing No. 481/1993 before the Civil Court in which an ex parte interim injunction was passed restraining the Customs Authorities from causing obstruction in the movement and operation of the aforesaid goods to the concerned sites. It was, however, mentioned in the said order that the said material shall be used in Indian Waters and customs duty shall be paid at 30%.

2. Under the strength of the said order, the appellant removed aforesaid item from the Port Trust. No duty was paid. According to the appellant, the customs duty was payable under Heading 8905.90. Thereafter the suit was withdrawn.

3. Though the eventualities which took place thereafter in the form of second suit and the proceedings are quite lengthy but we need not to give details of all these developments. Suffice it to state that later on show cause notice was issued on

27-5-1995 wherein it was mentioned as to why the said goods be not covered under Heading 8905.20 as "floating or submersible drilling or production platform". Reply to the show cause notice was filed. According to the Department, the goods were removed without permission from the proper Officer and the same were liable to confiscation under Section 111(j) of the Customs Act (hereinafter referred to as "the Act"). After giving hearing to the appellant, the demand in the show cause notice was confirmed. The demand of duty was made. The goods were confiscated and were allowed to be redeemed on the payment of Rs. 5 crores as redemption fine and penalty under Section 112(a) of the Act to the tune of Rs. 2 crores was also levied.

4. The appellant filed an appeal against the said order before Customs, Excise & Service Tax Appellate Tribunal (hereinafter referred to as "the Tribunal"). The Tribunal has confirmed the order of the Commissioner and partially allowed the appeal of the appellant vide its decision dated 27-2-2006. Challenging the order dated 27-2-2006, the present appeal is filed.

5. Insofar as classification is concerned, the order of the Commissioner was maintained. However, the Tribunal came to the conclusion that even if the goods fall under Heading 8905.20, the appellant was entitled to the benefit of another exemption Notification i.e. Customs Notification No. 196/89, according to which concessional rate of duty to be paid at 30%. To this extent benefit is given to the appellant.

6. We are of the opinion that it is not necessary to go into the dispute in detail. Reason is that, during the pendency of proceedings before the Commissioner, the appellant had approached the authorities under Kar Vivad Samadhan Scheme and volunteered to pay the duty at 30% on the premise that the goods were classifiable under Heading 8905.20 and the Customs Notification No. 196/89 shall be applicable and, therefore, the appellant showed readiness for payment of duty at 30%. No doubt, its application under Kar Vivad Samadhan Scheme was rejected. However, this benefit has been extended by the Tribunal. Once this relief is given by the Tribunal, we are of the view, that no further relief is required to be given to the appellant in the facts of the present case.

7. The appeal is, accordingly, dismissed.