
(1971) 11 DEL CK 0011

In the Delhi High Court

Case No : Civil Writ Appeal No. 68D of 1961

MIS Stressed Concrete Constructions Ltd.

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 04-11-1971

Acts Referred:

Citation : (1972) RLR 11

Hon'ble Judges : M.R.A Ansari, J

Bench : Single Bench

Advocate : B.P. Maheshwari and J.P. Gupta, for the Appellant;

Judgement

M.R.A. Ansari, J.

(1) These three writ petitions can be disposed of by a common Judgment as the points for determination and the facts relevant thereto are identical in all the three petitions. These petitions are directed against the order of the Union of India dated 12th June, 1961 rejecting the revision petitions filed by the petitioner against the orders of the Assistant Collector of Customs and Collector of Customs by which goods imported by the petitioner were classified under Item 63 (28) of the Indian Customs Tariff. The relevant facts may be briefly stated : The petitioner was constructing a bridge across the Palar River in the State of Madras and for the purpose of the said construction, the petitioner imported sandwich steel plates, also known as machined steel anchorage steel plates. The Customs authorities at Madras assessed these goods under Item No. 63 (28) of the Indian Customs Tariff (1st Schedule) and collected the customs duty from the petitioner which was chargeable for the goods under the said item. The petitioner wrote a letter to the Assistant Collector of Customs, Madras, claiming that his goods came under item No. 63 (9) and not under Item No. 63 (28) of the Indian Customs Tariff and asked for the refund of the excess customs duty collected from the petitioner. The petitioner's claim was rejected by the Assistant Collector of Customs and appeals filed by the petitioner to the Collector of Customs were also dismissed. The petitioner thereupon filed revision applications to the Central

Government and by its order dated 12th June, , the Central Government rejected the said applications.

(2) One of the grounds on which the petitioner seeks to challenge the order of the Government dated 12th June, 1961 is that it is not a speaking order. The said order is to the following effect : "The Government of India have carefully considered the revision petition, but see no reason to interfere with order-in-appeal passed by the Collector of Customs, Madras." There can be no doubt that this is not a speaking order as it does not state the reasons for rejecting the revision petitions filed by the petitioner. The question is whether the petitioner can challenge the said order on this ground. The Supreme Court had occasion to examine the question as to whether the revisional authority should give reasons for its decision, in the case of *Bharat Raja Vs. The Union of India (UOI) and Others*, and after examining the case law on the subject, held as follows :- "The decisions of tribunals in India are subject to the supervisory powers of the High Court under Art. 227 of the Constitution and of appellate powers of Supreme Court under Art. 136. It goes without saying that both the High Court and the Supreme Court are placed under a great disadvantage if no reasons are given and the revision is dismissed curtly by the use of the single word "rejected", or "dismissed". Ordinarily, if the State Government gives sufficient reasons for accepting the application of one party and rejecting that of the others, as it must, and the Central Government adopts the reasoning of the State Government, Supreme Court may proceed to examine whether the reasons given are sufficient for the purpose of upholding the decision. But, when the reasons given in the order of the State Government are scrappy or nebulous and the Central Government makes no attempt to clarify the same, Supreme Court, in appeal may have to examine the case de novo without anybody being the wiser for the review by the Central Government. If the State Government gives a number of reasons some of which are good and some are not and the Central Government merely endorses the order of the State Government without specifying those reasons which according to it are sufficient to uphold the order of the State Government, Supreme Court, in appeal may find it difficult to ascertain which are the grounds which weighed with the Central Government in upholding the order of the State Government. In such circumstances, what is known as a "speaking order" is called for." The same rule was laid down by the Supreme Court in a later case, viz.. *Travancore Rayon Ltd. Vs. Union of India (UOI)*, . The impugned order of the Government in that case is almost exactly the same as the impugned order in the present case. That was also a case arising under the Central Excise and Salt Act, 1944. The revision petition to the Government was filed against the order of the Collector of Customs as in the present case. The Supreme Court rejected the contention that where the impugned order merely confirmed the order of the appellate authority which had contained sufficient reasons for the order, the order of the Government confirming the same need not give the reasons for confirmation. It was held that the decision of the Supreme Court in *Madhya Pradesh Industries Ltd. Vs. Union*

of India and Others (UOI), , which supported the contention was in effect overruled by the later judgment of the Supreme Court in Bhagat Raja's case referred to above and it was further held that where the Central Government exercising the power in revision gives no reasons, the order would be regarded as void. The impugned order by the Supreme Court was, Therefore, struck down.

(3) Following the rule laid down by the Supreme Court in the above cases, it has to be held that the order of the Government dated 12th June 1961 is not an order in accordance with law. The said order is Therefore, set aside and the Central Government is directed to decide the revision petitions filed by the petitioner in the light of the rule laid down by the Supreme Court in the said cases. The writ petitions are allowed; but there shall be no order as to costs ,Petition allowed