

(2003) 12 BOM CK 0034

In the Bombay High Court

Case No : Writ Petition No. 2098 of 1990

Neela Exports P. Ltd.

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 02-12-2003

Acts Referred:

Customs Act, 1962 — Section 112

Citation : (2004) 114 ECR 174 : (2004) 166 ELT 440

Hon'ble Judges : R.M.S. Khandeparkar, J;J.P. Devadhar, J

Bench : Division Bench

Advocate : S.M. Kantawala, instructed by Kantawala and Co, for the Appellant;
Shirish Gupte, ASG and H.V. Mehta, for the Respondent

Judgement

J.P. Devadhar, J.—The petitioners have challenged the order passed by the licensing authorities levying penalty of Rs. 25 lakhs for illegally disposing of the goods imported by the petitioners under the advance licence granted to them. By the order-in-original dated 3-11-1987 the petitioners were debarred for seven years and penalty of Rs. 25 lakhs was levied upon the petitioners on the ground that the petitioners had sold the imported goods in violation of the advance licence granted to them. Appeal filed by the petitioners against the said order was dismissed by the Appellate Committee on 26-6-1990. Challenging the said order, the present petition has been filed.

2. While admitting the petition and granting interim relief on 31-1-1991, this Court directed the petitioners to deposit a sum of Rs. 12.5 lakhs in this Court and to furnish a Bank guarantee for a sum of Rs. 12.5 lakhs. The amount deposited by the petitioners was invested in a Nationalised Bank. As per the report furnished by the office of the Prothonotary and Senior Master, the amount invested, with accrued interest, has come to Rs. 37,64,267/-.

3. The fact that the petitioners had violated the licence conditions by selling the imported goods to the local units is not disputed. The fact that the petitioners have undergone debarment cannot be a ground to set aside the order of penalty.

However, looking to the fact that the petitioners have fulfilled the export obligation by procuring the locally made goods and in view of the fact that the amount of Rs. 12.5 lakhs deposited by the petitioners has now with interest has accumulated to Rs. 37,64,267/-, we are of the opinion that interest of justice would be met by restricting the penalty to Rs. 12.5 lakhs with accrued interest so that the respondents are entitled to receive the entire amount lying with the Prothonotary and Senior Master.

4. Accordingly, we direct the Prothonotary and Senior Master to handover the entire amount of Rs. 12.5 lakhs deposited by the petitioners together with the accrued interest to the Director General of Foreign Trade as per the procedure as expeditiously as possible. As regards the Bank guarantee of Rs. 12.5 lakhs furnished by the petitioners, the same stands cancelled and discharged. Petition is accordingly disposed of in the above terms with no order as to costs.