(2014) 10 MAD CK 0057

In the Madras High Court

Case No : W.P. No. 34112 of 2013

Neoteric Informatique Ltd. APPELLANT

Vs

Asstt. Commr. of Cus. (Group 5), Chennai RESPONDENT

Date of Decision : 16-10-2014

Acts Referred:
Customs Act, 1962 — Section 154

Citation : (2015) 315 ELT 494

Hon'ble Judges : T.S. Sivagnanam, J

Bench : Single Bench

Advocate : Hari Radhakrishnan, Advocates for the Appellant; K. Rajasekar, Advocates for the Respondent

Judgement

T.S. Sivagnanam, J.—The petitioner seeks for the issuance of writ of mandamus, directing the respondent to rectify the error of classification of goods described as BenQ MS 502P Data Projector in Bill of Entry No. 7471179 dated 23-7-2012 to Customs Tariff Heading 8528 61 00 and thereafter, reassess the said bill of entry within a reasonable time. The petitioner is a regular importer of Electronic equipments and he filed a Bill of Entry dated 23-7-2012 to import ''BenQ MS502P Data Projector''. In the said Bill of Entry, the goods were classified under Customs Tariff Heading 8528 69 00. According to the petitioner, the correct classification should be 8528 61 00 and so also in all the subsequent entries. Therefore, the petitioner made a request to the respondent by letter dated 21-1-2013, requesting to rectify the error. The Assistant Commissioner of Customs (Group 5A & B), by order dated 18-2-2013, declined to accept the request made by the petitioner stating that Section 154 of the Customs Act, 1962 empowers only to correct clerical or arithmetical error in any decision or order passed by the proper officer, Board or Central Government and not the error made or committed by the importer or his authorized agent. The petitioner was advised to prefer an appeal for suitable remedy. In the background of the facts, the petitioner is before this Court.

2. As rightly pointed out by the Department, Section 154 of the Customs Act deals with correction of clerical errors, etc., which reads as follows:

"154. Correction of clerical errors, etc. - Clerical or arithmetical mistakes in any decision or order passed by the Central Government, the Board or any officer of customs under this Act, or errors arising therein from any accidental slip or omission may, at any time, be corrected by the Central Government, the Board or such officer of customs or the successor in office of such officer, as the case may be."

3. The language of the above provisions is clear and it empowers that the Central Government, the Board or any officer of customs under the provisions of the Customs Act to effect correction of clerical or arithmetical mistake in any decision or order passed by the Central Government or errors arising therein from any accidental slip or omission.

4. Admittedly, the Bill of Entry was filed by the petitioner and therefore, it is their document and if any error was committed by the petitioner, then the petitioner cannot approach the authority to invoke Section 154 of the Act effecting correction of their bill of entry. If according to the petitioner, the correct classification was accepted by the department in the subsequent import, then it is a good ground for the petitioner to file an appeal before the appellate authority. In fact, the Assistant Commissioner of Customs, in their communication, advised the petitioner to approach the appellate authority. In the result, the prayer sought for by the petitioner in the writ petition is rejected and the writ petition is dismissed. However, liberty is given to the petitioner to file an appeal before the appellate authority and if such an appeal is filed, within a period of 30 days from the date of receipt of a copy of this order, the appellate authority shall consider the appeal without reference to limitation and deal with the appeal on merits and in accordance with law. No costs.