(1995) 01 SC CK 0073

In the Supreme Court Of India

Case No : Civil Appeals No. 454 Of 1984 With No. 6652 (Nt) Of 1983

Paros Electronics (P) Ltd. APPELLANT

Vs

Union of India and Another RESPONDENT

Date of Decision : 17-01-1995

Acts Referred:
Customs Act, 1962 — Section 27

Citation : (1996) 83 ELT 261 : (1995) 3 SCC 578 Supp

Hon'ble Judges : A. M. Ahmadii, C.J;S. C. Agrawal, J;N. P. Singh, J

Bench : Full Bench

Final Decision : dismissed

Judgement

1. In both these appeals the question which arises for consideration is whether the Customs Authorities are right in refusing to grant refund of duty paid and the levy whereof had become final being contested at all departmental levels. The duty was paid by the appellant without raising any protest whatsoever. It appears that thereafter, on the basis of another decision made in a different case applications were preferred for refund of duty on the ground that it was erroneously recovered. The said applications were dismissed on the ground that the same were barred by time since they were not made within the time prescribed by Section 27 of the Customs Act, 1962. These appeals are against the said decisions.

2. We have heard learned Counsel for the appellants and we do not see any infirmity in the order made by the authority rejecting the application. In the first place, in the proceedings which emanated for levy of duty the order became final and without having that order set aside by a competent court there would be no question of grant of refund merely on the ground that in some other case a different view was taken, even if the payment is made under mistake of law. As long as the order which became final stands the authority cannot grant refund. If the application is u/s 27 of the Act then the authority, being a creation of the statute, must act within the ambit of that provision and if the application is

delayed he has no alternative but to reject it as barred by limitation.

3. For the above two reasons we are of the opinion that the impugned order does not require interference. However, an attempt was made by relying on the decision in Patel India (Private) Ltd. Vs. Union of India (UOI) and Others, . We have perused the judgment and we are of the opinion that it turned on the provisions of Section 40 of the Sea Customs Act, 1878 and has no application on the facts of the present case. In that case, a direction had already been given in the earlier revision that the invoice price should be accepted as real value within the meaning of Section 30 of the Sea Customs Act and that was applied to the rest of the consignment also.

4. The facts are different in the instant case. We, therefore, do not think that the authority is of any help to the appellants.

5. In the result, both the appeals fail and are dismissed but we make no order as to costs.

