(1987) 10 BOM CK 0017

In the Bombay High Court

Case No : Writ Petition No. 2688 of 1982

Shrijee Sales Corporation APPELLANT

Vs

Collector of Customs RESPONDENT

Date of Decision : 08-10-1987

Acts Referred:

Customs Act, 1962 — Section 14(1)
Customs Tariff Act, 1975 — Section 3(1), 3(2)

Citation : (1993) 67 ELT 458

Hon'ble Judges : M.L. Pendse, J;M.H. Kania, J

Bench : Division Bench

Judgement

Pendse, J.—This petition is companion to writ Petition No. 697 of 1983 in which today we have delivered judgment and for the reasons recorded in that judgment this petition must also fail.

2. The learned counsel appearing on behalf of the petitioners submitted that Section 3(2) of the Customs Tariff Act,. 1975 is ultra vires because the learned counsel that Entry 83 of Seventh Schedule to the Constitution of India does not confer power on the Parliament to provide for mode of determining assessable value by loading c. i. f. value with Customs duty or the purposes of payment of countervailing duty. It is not possible to accept the submission of the learned counsel. Entry 83 in the Seventh Schedule reads as under :

" Duties of customs including export duties",

We fail to appreciate why this entry will not authorise the Parliament to legislate and pass Customs Tariff Act. Various duties like basic customs duty, auxiliary duty and additional countervailing duties are levied on imported goods under the board heading " Customs Duties". The charging section in respect of countervailing duty is Section 3(1) of the Customs Tariff Act. Sub-section (2) of Section 3 merely provides the mode of determining assessable value of imported goods for the purpose of levy of countervailing duty. Section 3(2) of the Act provides that assessable value is to be fixed by taking into consideration (a) the value of imported goods are prescribed u/s 14(1) of the Customs Act, and (b) the basic customs duty paid on such imported goods. It is obvious that sub-section (2) of Section 3 is not charging Section but only provides the method for determining the assessable value.

3. It was contended by the learned counsel that though the Legislature is entitled to provide for double taxation, the Parliament is not entitled to levy taxes by adding the basic customs duty to c. i. f. value was as that amounts to tax on tax. We do not find any merit in the submission. Section 3(2) merely provides for method to determine the assessable value and while providing that method, it was open for the parliament to prescribe that the Customs duty would be added to c. i. f. value. In our judgment sub-section (2) of Section 3 does not suffer from any infirmity.

4. Accordingly rule is discharged with costs. At this stage, counsel applies for continuation of interim relief for four weeks. Prayer refused.

