(1992) 07 CAL CK 0013

In the Calcutta High Court

Case No : Matter No. ... of 1992

Srilekha Finance Co. Ltd. APPELLANT

Vs

Collector of Customs RESPONDENT

Date of Decision : 16-07-1992

Acts Referred:
Customs Act, 1962 — Section 115, 124

Citation : (1993) 66 ELT 78

Hon'ble Judges : Suhas Chandra Sen, J

Bench : Single Bench

Judgement

Suhas Chandra Sen, J.—Srilekha Finance Co. (P) Ltd. claims to be the owner of motor vehicle bearing Registration No. NLM 9937. According to the petitioner, the motor vehicle had been given to one Rajvinder Kaur under an hire purchase agreement on good faith and in the usual course of business. The truck along with the goods were seized by the Customs Department on the allegation that unlawfully imported goods were being carried by this truck. A show cause notice was issued by the Customs authorities upon a number of persons including one Jewan Mal Jangid (Accountant), S/o Lt. Tara Chand Jangid, M/s. Sri Lekha Finance Co. Pvt. Ltd., Brijgo Sena Market (2nd floor), 1/1/1, Madhu Seth Lane, Calcutta-7, to show cause why the conveyance should not be confiscated u/s 115 of the Customs Act. Section 124 of the Customs Act lays down that no order of confiscating any goods or imposing any penalty shall be passed under Chapter XIV of the Customs Act unless the owner of the goods or such person has been given a notice in writing informing him of the grounds on which the proposed confiscation order or penalty order is going to be passed and the person concerned is given an opportunity of giving a written representation and also a reasonable opportunity of being heard in the matter.

2. The only question raised is that the owner of the motor vehicle has not been given a notice.

3. On behalf of the respondent it has been alleged that the Accountant of the

petitioner company appeared pursuant to the show cause notice and made submission. The show cause notice has been annexed. From the show cause notice it appears that the notice was served upon Jewan Mal Jangid, Accountant. The notice was not addressed to the petitioner company. The Accountant of the company is not the owner of the motor vehicle.

4. That apart, there is no averment that the Accountant is the duly authorised agent of the petitioner company to receive the notice.

5. Therefore, on the basis of this show cause notice, the Customs Department is not entitled to proceed against the petitioner company. As such, there will be an order, as prayed, in terms of prayer (a) of the petition and the vehicle must be returned by the Customs authority within a period of 3 weeks from date. I make it clear that this order will not prevent the Customs authorities from proceeding in accordance with law and taking appropriate measure open to them in accordance with law against the petitioner. There will be no order as to costs.

6. All parties are to act on a signed copy of the minutes of the operative part of this judgment on the usual undertaking.