

Steel Strips Limited

v.

Assistant Collector of Customs

(Supreme Court Of India)

HON'BLE JUSTICE M. P. THAKKAR HON'BLE JUSTICE K. N. SINGH

Civil Appeal No. 3530 (Nm) Of 1986 | 30-09-1986

1. We have considered the matter fully with the assistance of the learned counsel for the parties. We are of the opinion that having regard to the communication dated July 3, 1981 addressed by the Steel Authority of India to the Assistant Collector of Customs which is in the following terms :-

2. The above consignment was imported by us under buffer scheme which is exempted payment of customs duty, auxiliary duty and additional duty as per ad hoc exemption order No. 177/80. We understand from our customer M/s. Steel Strips Ltd. to whom we sold the above consignment on highseas basis that they have by mistake paid the customs duty as per B/B enclosed. Since it is a genuine mistake on the party of the customer we shall be thankful for your refunding the amount of duty either to us or directly to the customer M/s Steel Strips Ltd., Chandigarh. [Emphasis added]

3. The import must be held to have been made by the Steel Authority of India and not by the appellant. The result would be that having regard to the buffer scheme the Steel Authority of India, real importers, would be entitled to exemption from payment of duty. The Tribunal was in error in dismissing the appeal of the appellant. We, therefore, allow this appeal, set aside the order of the competent authority as confirmed by the Tribunal, and direct that if the amount of duty has been recovered, it shall be refunded to the party from whom it was recovered. There will be no order as to costs.