

M/s Shivalik Agro Ply Products

Vs

Collector of Customs, Bombay

Civil Appeal No. 186 of 1988

(Sabyasachi Mukharji, B. C. Ray JJ)

13.09.1989

JUDGMENT

SABYASACHI MUKHARJI, J.-

1. This is an appeal under Section 130-E of the Customs Act, 1962 (hereinafter called 'the Act') against the order of the Customs, Excise and Gold (Control) Appellate Tribunal rejecting the appeal, preferred by the appellant. There was a search of the premises of the appellant in which documents were recovered from the premises of the appellant. The effects of those documents have been examined and considered by the Tribunal in its order at pages 6 and 7 of the paper book. The question before the Tribunal was : what was the price ? The Tribunal considered the respective evidence; the appellant was contending that it should be US \$ 553.40 while the respondent authorities had fixed it at US \$ 627.27, and had come to the conclusion that the goods were undervalued. Having considered the relevant evidence the Tribunal was of the opinion that the revenue authorities were correct in accepting the rate of US \$ 627.27. If that is so, then the question was rightly decided by the revenue authority. The penalty of Rs. 4,50,000/- has been imposed, keeping in view all the facts the Tribunal had reduced the penalty of Rs. 2,50,000. Except that modification, the order of the revenue authorities was confirmed. The appeal before the Tribunal was dismissed. Learned Counsel for the appellant urged before us that in view of Section 14 of the Customs Act, 1962 and in view of the telex message produced by the appellant indicating that the value was US \$ 553.40, the Tribunal was in error in proceeding on the basis that the value should be US \$ 627.27. As mentioned hereinbefore, voluminous evidence were before the Tribunal, and it noted the circumstances under which the evidence came and the effect of such evidence produced. If on appraisal of such evidence the Tribunal, in the facts and circumstances of the case, has chosen to accept the evidence in favour of US \$ 627.27 it cannot be said that the Tribunal has committed any error which calls for interference in this appeal. So far as the question of imposition of penalty is concerned if it is a fact, as has been held by the Tribunal, that the value was US \$ 627.27, then undoubtedly considered the facts and reduced the penalty. There is nothing to indicate that a further reduction was desirable or warranted in the facts of this case.

2. In that view of the matter, we cannot interfere with the order passed by the Tribunal. The appeal is accordingly dismissed. The interim orders are vacated. The amount be paid by the appellant within a period of four months.

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