

P. A. C. Systems Pvt. Ltd.,

Vs

Collector of Customs

Civil Appeal No. 3596 (NM) of 1991

(Kuldip Singh, P. B. Sawant, N. M. Kasliwal JJ)

03.02.1992

JUDGMENT

1. This appeal is directed against the order of the Customs, Excise and Gold (Control), Appellate Tribunal (hereinafter called 'the Tribunal') dated June 5, 1991. We have heard learned counsel for the parties. The Tribunal has based its decision on the interpretation of para 204(6) of the AM 1990-93 Import Trade Control Policy. Para 204 relates to the transitional arrangements in respect of goods for which orders were placed in terms of the old policy but the goods were imported after commencement of the new policy. After quoting sub-para (6) of para 204 the Tribunal observed as under:

It is apparent from a reading of this para that the REP licences are no longer valid for import of permissible non-UGL capital goods, tools and instrument importable in terms of para 177(2) of AM 1988-91 Policy Book which have been shifted to Appendices 1, Part A, 2, Part B or 8 of this Policy."

2. The Tribunal, thus, proceeded on the assumption that the goods imported by the appellant have been shifted to Appendices Part A of the new policy. Before us it is not disputed by the learned Additional Solicitor General appearing for the respondent that the goods imported by the appellant had not been shifted to the appendices under the new policy and as such para 204(6) of the AM 1990-93 Import Trade Control Policy is not applicable to the appellant's case. Since the Tribunal proceeded on a non-existing ground there is an error apparent on the face of the record. We, therefore, set aside the order of the Tribunal and remand the case to the Tribunal for fresh decision on merits after hearing the parties. The parties will be at liberty to raise all the points arising in the appeal. We allow the appeal in the above terms and remand the case to the Tribunal.

There will be no order as to costs. Order accordingly.

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