SUPREME COURT OF INDIA

Coromandal Fertilizers Ltd.

Versus

Collector of Customs

(S.P. Bharucha and R.C. Lahoti JJ)

Civil Appeals Nos. 2233-42 of 1988 with No. 4307 of 1996

14.12.1999

JUDGMENT

1. A brief question arises in these appeals, namely, having, for the purposes of assessment of customs duty, assessed landing charges at the rate of 1.4 per cent of the CIF value of imported goods, can the Customs Authorities also add to their value stevedoring charges.

2. The appellants manufacture fertilizers. For this purpose they imported large quantities of rock phosphate and sulphur. The said goods were brought to India in chartered ships arranged by MMTC, the canalising agency at the relevant time, namely, 1971 to 1975. The said goods were purchased by the appellants on the high seas. The responsibility of unloading the said goods in India was theirs. For the purpose of efficient unloading, the appellants maintained their own wharf at Visakhapatnam, unloading equipment and staff for the same.

3. Landing charges of the said goods were assessed at 1.4 per cent of the CIF value thereof. The Assistant Collector said that the 1.4 cent landing charges did not include stevedoring charges and he added them separately, calculating them upon the basis of, interalia, unloading labour charges, customs staff overtime, port basis of, inter alia, unloading labour charges, customs staff overtime, port hire charges for dining hall, fuel, electricity, depreciation, approximate maintenance cost, administrative overheads and notional interest on capital. He found that the stevedoring charges ranged between Rs. 5.86 to Rs. 9.42 per metric ton of the said goods.

4. The appellants succeeded before the Appellate Collector, who took the view that landing charges and stevedoring or unloading charges were one and the same. The Customs. Authorities challenged the correctness of his order before the Customs. Excise and Gold (Control) Appellate Tribunal and it is the order of the Tribunal which is now in question before us. According to the Tribunal, the 1.4 percent landing charges already added to the value of the said goods comprised wharfage charges and conveyance charges from the wharf to the transit sheds but not the unloading charges had, therefore, in its view, to be computed and added on and they could only be computed, as had been done by the Assistant Collector, but with some marginal difference.

5. We asked Mr. Bajpai, learned counsel for the Customs Authorities repeatedly how stevedoring or unloading charges could be added on to the value of goods when the Customs Authorities had already loaded the value of goods with landing charges at the rate of 1.4 per cent of their CIF value. We do not think that we have received any satisfactory answer to the question at the conclusion of the hearing.
6. Mr. Bajpai referred to Section 42 of the Major Port Trusts Act, 1963 and submitted, quite rightly, that the Board of Trustees of a major port furnish a variety of services, including receiving, removing, shifting, transporting, storing and delivering goods brought within their premises. In his submission, in this particular case, the 1.4 per cent landing charges did not include charges for unloading the said goods. Unloading the said goods had been done by the appellants themselves at the wharf that they had hired, using their own equipment and their own staff. Therefore, the charges on this account, called stevedoring charges, had to be added, irrespective of the fact that 1.4 percent landing charges had already been added. Mr. Bajpai further submitted that the Customs Authorities would be in great difficulty if in each case the actual landing charges had to be ascertained and charges.
7. "Landing charges" are exactly what the words mean, the expenditure incurred by an importer for bringing goods on board ship to land. Landing charges, in law, must be assessed on actuals, but, as a matter of practice, particularly to facilitate expeditious clearance, landing charges are assessed at a percentage of the value of the goods and such assessment is accepted. When so assessed, landing charges cover the totality of all that an importer expends to bring imported goods to land.
8. In the present case, the Customs Authorities assessed the landing charges that the appellants incurred at 1.4 per cent of the CIF value of the goods. There is no objection by the appellants to this. It is not their case that such percentage exceeds the costs in this behalf that they have actually incurred and that they should get a refund. What they do contend is that the 1.4 per cent landing charges represent all that they have had to expend to bring the said goods to land and that, therefore, no addition of stevedoring or unloading charges can be made.
9. In our view, the submission made on behalf of the appellants is unexceptionable. It is open to the Customs Authorities not to assess landing charges and it is not open to them then to seek to add any amount thereto on the basis that this or that or the other was not covered thereby.
10. In the result, the civil appeals are allowed. The order under challenge is set aside. The respondent shall pay to the appellants the costs of the appeals.