

SUPREME COURT OF INDIA

Steel Authority of India Ltd.

Vs.

Collector of Customs

(U.C. Banerjee and B.N. Kumar JJ.)

14.12.2000

ORDER

1. Steel Authority of India Ltd. is in appeal against the judgment of Customs, Excise and Gold (Control) Appellate Tribunal (CEGAT) wherein the Tribunal has allowed the appeal of the Collector of Customs, Madras and set aside the order of the Collector of Customs (Appeals), Madras.

2. The brief facts of the matter in issue are as follows : The appellant-Steel Authority of India Ltd. being a Government of India Undertaking in the public sector, imported a large quantity of coking coal and the present dispute relates to the import of the same between the months of April 1979 and January 1980. The records depict that the appellant filed 9 bills of entries indicating the tonnage of consignment in the said bills of entries as per the weight entered in the bills of lading. Since there was existing an exemption notification, under which coking coal was fully exempted, the appellant filed the bills of entries claiming 'NIL' rate of customs duty. The goods were cleared without any objection whatsoever by the authorities, but subsequently the Discharge Port Draft Survey indicated excess quantity of importation. The contextual facts depict, and as has been contended by the appellant herein, that the customs authorities did insist on a supplementary bill of entry for every consignment wherever there was any excess importation and in accordance therewith the appellant filed supplementary bills of entries in the month of July 1980 in order to cover the excess quantity imported. The Exemption Notification No. 142 dated 28.7.1978, however, was rescinded with effect from 30th June, 1980 and it is on the basis of such rescission of the exemption notification that the customs authorities raised further demand of duty amounting to Rs. 2,52,301.79p. The appeal before the Collector of Customs (Appeals) Madras by the appellant herein succeeded, but a further appeal to CEGAT against the order resulted in setting aside of the order of the Collector of Customs (Appeals), Madras. Hence, the present appeal before this Court.

3. The short question involved is:

Whether in the contextual facts, the Steel Authority of India Ltd. has any liability to pay customs duty on the basis of supplementary demand as raised for the consignment imported during the continuance of the exemption notification as noticed hereinbefore?

4. Mr. V. Lakshmikumar, learned Counsel appearing in support of the appeal very strongly contended that the Tribunal unfortunately had imported a far too strict an interpretation to Section 15 of the Customs Act without any reference to the contextual facts and, thus, fell into a clear error.

It has been contended that once the goods leave the customs barrier question of further imposition, unless there are some erroneous levy, would not arise. Supplementary bills of entries were filed at the instance of the customs authorities on the basis of the Discharge Port Draft Survey on account of the goods which stood cleared between April 1979 and January 1980 obviously during the continuance of the exemption notification. The learned Additional Solicitor General appearing for the customs authorities, however, placed very strong reliance on Section 15 and contended that the customs authorities would be within their rights to demand duty on the date on which a bill of entry in respect of such goods is presented and any contra interpretation attributed to the provisions of Section 15, would render the Section totally otiose.

5. At the first impression, the submissions of learned Additional Solicitor General seemed to be rather attractive, but on a closer scrutiny and in the peculiar facts and circumstances of the matter in issue the same loses its efficacy by reason of the fact that there is only one consignment for which two separate bills of entries were filed. The consignment was cleared on the basis of the first bill of entry and by reason of the Surveyor's report a second bill of entry has been filed. One transaction for one consignment for which two separate bills of entries have been filed, does not however warrant imposition of duty twice over which is otherwise not leviable on the date of the presentation of the first bill of entry. Be it noted that the respondent has not taken the stand of erroneous short levy or any fraud being perpetrated.

6. In that view of the matter as above, we are unable to record our concurrence with the order of the Tribunal (CEGAT).

7. We, accordingly, allow this appeal. The order thus stands set aside and quashed. It is, however, clarified that this order is passed in the peculiar facts and circumstances of the matter in issue and would not be treated as a precedent in any matter.