

Union of India & Others

v.

M/s. Patiala Castings Pvt. Ltd

(Supreme Court Of India)

HON'BLE MR. JUSTICE D.K. JAIN HON'BLE MR. JUSTICE H.L. DATTU

Civil Appeal No. 3642 Of 2003 With No. 3643 Of 2003 | 15-02-2011

1. Heard learned senior counsel for the parties.

2. These two appeals by the revenue are directed against the final judgments and orders dated 1st May, 2002 and 2nd May, 2002 delivered by the High Court of Punjab & Haryana at Chandigarh, respectively in C.W.P. Nos. 8807 and 7717/2000. By the impugned judgments, the High Court has directed the Directorate of Revenue Intelligence to allow provisional release of consignments of Heavy Melting Scrap, imported by the two respondents in these appeals in terms of interim order dated 16th June, 2000. By the said order the High Court while ordering the release of the seized consignments in 38 containers, details whereof were furnished in Annexures P-6, P-18 and P-19 filed with the writ petition, had directed that the released material shall be mutilated and put into furnaces installed at the industrial unit. Additionally, the respondents were directed to execute bonds and also furnish bank guarantees to the tune of 30% of the value of the goods to be assessed provisionally as M.S. Pipes classified under Customs Tariff Heading 73.04.

3. In view of the order we propose to pass in these appeals, we deem it unnecessary to state the facts, which have given rise to the present appeals. It would suffice to note that pursuant to order dated 16th June, 2000 and the impugned orders, all the consignments had been released on respondents' complying with the afore-stated conditions. It is also stated that the bank guarantees furnished by the respondents in terms of the said orders are still alive.

4. Indubitably, after the release of the goods on the basis of provisional assessment, there has been no final adjudication of the Bills of Entry filed for clearance of the goods for home consumption. Under the given circumstances, we are of the opinion that instead of examining the correctness of the impugned orders at this juncture it will be in the interest of the revenue as well as the importers if all the import consignments in respect of which show cause notices have been issued to the importers are finally adjudicated. Accordingly, we dispose of the appeals with the following directions :

(i) The respondents-importers shall file their respective replies to the show cause notices dated 5th February, 2002 (in the case of M/s Patiala Castings (P) Ltd.) and 13th/15th April, 2001 (in the case of M/s Dutt Multimetals Ltd.) within four weeks of the date of receipt of a copy of this order, before the Commissioner of Customs, Amritsar. In support of the plea that there was no mis-declaration in the bills of entry, it will be open to the respondents to urge all the grounds, as may be available to them in law, including the objection with regard to the jurisdiction to issue the show cause notices in question.

(ii) The respondents shall keep alive all the bank guarantees furnished by them in terms of the impugned judgments/orders till the order of adjudication is passed;

(iii) The Revenue shall not enforce the bonds or encash the Bank Guarantee till the order of adjudication is served on the respondents.

(iv) The issue with regard to the payment of demurrage/storage charges shall be determined by the authorities concerned after the final adjudication.

5. Needless to add that before the final orders are made, adequate opportunity of hearing shall be granted to the respondents.

6. At this juncture, Mr. Mohan Jain, learned Additional Solicitor General, prays that notice issued by the High Court to an officer of the Revenue Department may be discharged. The prayer is opposed by Mr. A.K. Ganguly, learned senior

counsel appearing on behalf of the respondents. As we have not adverted to and expressed our opinion on the respective contentions urged on behalf of the parties on the merits of the cases, we feel that it may not be proper for us to comment on the conduct of the officer concerned. Nevertheless, we are of the view that since the main grievance of the respondents-viz. release of consignments, stood addressed long time back, there is no point in keeping the writ petitions, filed in the year 2000, pending. Accordingly, we would request the High Court to take on board C.W.P. Nos. 8807 & 7717 of 2000, and dispose of the same as expeditiously as possible. We reiterate that we have not expressed any opinion on the conduct of officer concerned.

7. Both the appeals stand disposed of in the above terms, with no order as to costs.