

(2014) 10 P&H CK 0043

High Court Of Punjab And Haryana At Chandigarh

Case No: Customs Appeal Nos. 32-39 of 2014

B.E. Office Automation
Products Pvt. Ltd.

APPELLANT

Vs

C.C. (Preventive)

RESPONDENT

Date of Decision: Oct. 9, 2014

Citation: (2015) 323 ELT 737

Hon'ble Judges: Rajive Bhalla, J ; Amit Rawal, J

Bench: Division Bench

Advocate: Jagmohan Bansal, Advocate for the Appellant;

Judgement

Rajive Bhalla, J.

1. By way of this order, we shall dispose of Customs Appeal Nos. 32, 33, 34, 35, 36, 37, 38 and 39 of 2014, challenging orders dated 25-6-2012 and 31-1-2014 [2015 (317) E.L.T. 129 (Tri.-Del.)], passed by the Customs, Excise and Service Tax, Appellate Tribunal. Counsel for the appellants submits that as the bills of lading are prior to the amendment, imposing duty, orders imposing and affirming duty and directing the appellants to pay redemption fine and penalty, are without jurisdiction. Counsel for the appellants further submits the fact that their counsel did not press the ground regarding imposition of duty is irrelevant as the duty imposed inherently without jurisdiction.

2. We have heard learned counsel for the appellants and perused the impugned orders.

3. A perusal of order dated 25-6-2012 (Annexure A-I) passed by the learned Tribunal, reveals that counsel representing the appellants gave up challenge to chargeability of duty and only prayed for reduction of redemption fine and penalty. The Tribunal, accordingly considered the argument and reduced redemption fine to 10% and penalty to 5%, of the value of the imported goods.

4. The appellants, however, filed appeals before this Court which were disposed of with liberty to file a rectification application as the order passed by the Tribunal did not specifically record that chargeability to duty had been given up. The rectification application has been dismissed by holding as follows:--

"Even otherwise also, we find that the mistake pointed out by the appellant is regards as non-consideration of their plea regarding the import of photocopiers not being restricted items during the relevant period. Learned advocate fairly agrees that the said plea was neither raised nor argued at the time of disposal of the appeal and the only prayer was to reduce the redemption fine and penalty, which stand accepted by the Tribunal."

5. A perusal of the order passed on the rectification application reveals that counsel representing the appellants, before the Tribunal, conceded that plea with respect to chargeability of duty was neither raised nor argued and the only plea raised during arguments in the appeal was one for reduction of redemption fine and penalty. The appellants having given up challenge to chargeability of duty before the Tribunal cannot be allowed to retract from their admitted statements and therefore, as orders passed by the Tribunal dismissing the appeal and the rectification application do not suffer any error of jurisdiction or of law, the appeals are, accordingly, dismissed.