

(2006) 08 KAR CK 0081
Karnataka High Court
Case No: CSTA No. 19 of 2006

Commissioner of
Customs

APPELLANT

Vs

Stelfast Pvt. Ltd.

RESPONDENT

Date of Decision: Aug. 29, 2006

Acts Referred:

- Customs Act, 1962 - Section 65

Hon'ble Judges: R. Gururajan, J; N. Ananda, J

Bench: Division Bench

Advocate: Aravind Kumar, ASG, for the Appellant; None, for the Respondent

Final Decision: Dismissed

Judgement

1. Revenue is before us aggrieved by the order of the Tribunal dated 19-10-2005 passed in Appeal No. 30/2004 on the following facts :

The respondent is a holder of custom licence issued u/s 65 of the Customs Act, 1962. The respondent is a manufacturer of Lapping mandrels, valve Guiders, Pins, etc. It imports duty free capital goods, spares and raw materials by availing exemption in terms of the notification dated 9-2-1981. The respondent was permitted to set up 100% EOU by the Department of Industrial Development. The respondent imported capital goods and raw materials valued at Rs. 8,83,736/- during the period April 1993 to April 1994 and claimed exemption in terms of the Notification 13/81. The respondent availed exemption from Customs duty. Thereafter, according to the department, the respondent did not fulfil the conditions. Hence, a show cause notice was issued on 19-5-1999. In the show cause notice, apart from duties, interest was demanded. Reply was sent to by the assessee. Thereafter, an adverse order was passed. In the adverse order, apart from duty, interest was levied. The same was challenged before the Commissioner of Customs (Appeals). The appellate authority remanded the matter for de novo adjudication. After remand, assessing authority

once again passed an order ordering payment of duties and no penalty was imposed. Thereafter, an appeal was filed before the Commissioner of Customs (Appeals). The appellate authority upheld the Order-in-Original. Thereafter the matter was taken up before the Tribunal. Before the Tribunal, what was questioned was only with regard to claim of interest by the Department. The respondent did not question the liability of duty or any other amount in terms of the order passed by the authorities. The Tribunal allowed the appeal filed by the assessee. Revenue is therefore before us.

2. Heard Sri Aravind Kumar, learned Assistant Solicitor General and perused the material placed on record.

3. It is seen from the order of the Tribunal that the Tribunal has chosen to accept the case of the assessee in the light of notification dated 1-11-1995 in terms of the impugned order. The notification dated 1-11-1995 refers to notification dated 9-2-1981. The notification makes it very clear that no interest can be levied on the Customs duty payable on the goods warehoused under Chapter IX of the Act. Though the Tribunal has chosen to refer to other aspects of the matter, it is unnecessary for us to consider those issues in the light of applicability of the notification dated 1-11-1995. In our view, the Tribunal has not committed any legal error warranting our interference. No grounds. Appeal is being rejected without being admitted.