

(1997) 08 BOM CK 0067

Bombay High Court

Case No: Ordinary Original Civil Jurisdiction Writ Petition No. 3008 of 1987

Badri Prasad Choudhry

APPELLANT

Vs

Asstt. Cc and Others

RESPONDENT

Date of Decision: Aug. 20, 1997

Acts Referred:

- Finance Act, 1985 - Section 43(1)

Citation: (1998) 97 ELT 255

Hon'ble Judges: T.K. Chandrashekhara Das, J; A.A. Desai, J

Bench: Division Bench

Advocate: Mr. Vikram Nankani, instructed by M. K. Ambalal, for the Appellant; Mr. M.I. Sethna, Mr. V.G. Rege and Mr. H.V. Mehta, instructed by C.S. Shetty, for the Respondent

Judgement

1. The short question involved in this Petition is that the Burma Teak imported by the Petitioner from Singapore is exempted from import duty as per notification No. 280/76-Cus. dated 2.8.1976 as amended by Notification No. 103/86-CE dated 17.2.1986.

2. It is the case of the Petitioner that he had imported Burma Teak Squares that were produced or manufactured from Burma though it was purchased from Singapore and therefore the benefit of notification cannot be denied. Department while denying the benefit of the Petitioner did not take into account the two certificates produced by the Petitioner to show squares have been manufactured from Burma Teak though purchased from Singapore. The Assistant Collector of Customs took a view that teak was imported by the Petitioner from Singapore and not from Burma and certificates produced by the Petitioner cannot be accepted. We heard Counsels for Petitioner and Respondents.

3. According to us, the Petitioner cannot sustain his contention because the Notification clearly says exemption will be available specifically in the Schedule to the Notification only in case the Assistant Collector of Customs is satisfied that they

are the produce or manufacture of Burma without being imported to India and then it is exempted from auxiliary duty of Customs leviable thereon under Sub-Section (1) of Section 43 of the Finance Act, 1985. Attempt made by the Counsel for the Petitioner that the Notification only shows the exemption will be available without Burma Teak. We cannot agree to this proposition, it has to be taken into account the exemption of Customs Duty normally grants to articles or goods. Taking into account the trade interest of India and other country. The Notification clearly shows that it is only Burma Teak is entitled for exemption that means Burma Teak should be imported from Burma not in other country. This interpretation could only be given taking into account the exemption notification which is issued taking into account trade interest of both the countries. Therefore, we find there is no substance in the Petition. Petition is liable to be dismissed.