

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 2728/2007

COMMISSIONER OF CUSTOMS, MUMBAI

APPELLANT(S)

VERSUS

M/S AIRPORT AUTHORITY OF INDIA

RESPONDENT(S)

O R D E R

The present appeal raises a issue of classification of the following goods which were imported by the respondent/assessee viz.

M/s. Airport Authority of India Ltd.:

S.No.	Bill of Entry	Date	Description	CTH
1. and	5243	15.02.1997	8 Nos. of Aerobridges complete with spare & tools 1 No. Agnis	8428 8431.39
2. and	10135	26.3.1997	3 Nos. of "Agnis" 16 Nos. of Long life lamps for Aerobridges	8430.80 8539.29
3.	10140	26.3.1997	8 Nos. of Tyres of Aerobridges	4011.99

It is clear from the aforesaid table that the assessee had filed Bill of Entries by classifying these goods under Chapter

Heading of 8428, 8430.80 and 4011.99 respectively. In the Bill

Entries filed by the assessee, it had also claimed benefit of

Signature Not Verified

Notification

Digitally signed by

No. 36/96-CUS dated 23.07.1996 and Notification

tion

ASHWANI KUMAR

Date: 2015.10.17

12:34:00 IST

No.11/97-CUS dated 01.03.1997 as per which the import duty is 'nil'

Reason:

if the goods are to be classified under the aforesaid Chapter

Headings as claimed by the assessee. The appellant/Revenue, on the

other hand, took the view that these goods were classifiable under Chapter Heading 7308.10 as 'Bridges and bridge- Sections'.

The two competing entries read as under:

"7308-Structures (excluding prefabricated building of heading No. 94.06) and parts of structures (for example, bridges and bridge Section, lock gates, towers, lattice masts, roofs roofing frameworks, doors and windows and their frames and thresholds pillars and columns), of iron or steel, plates, rods, angles, shapes, sections, tubes and the like prepared for use in structures of iron or steel.

7308.10-Bridge and bridge-Sections.

Classification claimed by Airport Authority:

8428-Other lifting, handling, loading or unloading machinery (for example, lifts, escalators, conveyors, teleferics.

8428.90-Other machinery".

As pointed out, according to the Department, the goods in question are Bridge and bridge-Sections. On the other hand, the assessee claimed that these would be classified as loading or unloading machines or at least 'other machines'.

We are of the opinion that it may not be necessary to go into the aforesaid issue, inasmuch as, after going through the aforesaid exemption Notification, we find that the aforesaid goods are categorically covered thereby. As far as Notification No. 36/96 is concerned, at Sl. No. 143 it exempts certain goods with

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description contained thereof and that reads as under:

143	84 or any Navigational, communication 25%	Nil	21
	other air-traffic control and landing		
	chapter equipments and spares for		
	maintenance of such equipments when		
	imported by Airports Authority of		
	India.		

It may be discerned from the reading of the aforesaid Notification that if the goods fall within the description as mentioned therein the classification may not be of any relevance,

inasmuch as, Chapter Heading states "84 or any other chapter".

Coming to the description of goods, landing equipments are specifically covered. Of course, in order to get the benefit of this Notification, the assessee is also required to satisfy condition no. 21 as mentioned therein. This condition stipulates as under:

"The importer at the time of clearance produces a certificate from the Director General of Civil Aviation that the navigational, communication, air-traffic control and landing equipment and spares for maintenance of such equipment are required to be used for the modernization of airport facilities and recommends the grant of exemption to the said goods."

It is not in dispute that for availing the benefit of the said Notification the assessee had produced certificate which was issued by the Regional Airworthiness Office of DGCA and the said Regional Airworthiness Office is the delegated authority of DGCA to issue such certificate. The assessee had thus fulfilled the condition laid down in Notification No. 36/96. To the same effect is the

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Notification No. 11/97-Part I.

We may also note that the Department has issued another Notification No.21/02-CUS dated 01.03.2002 which removes the doubts, if at all, on the description of the goods in question. As per this Notification under Entry 232 goods specified in List 20 are exempted. Entry 232 reads as under:

232	84 or any Goods specified in List other required for development chapter Airports.	20 10% of	Nil	42
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Serial No.4 of List 20 describes the goods as 'Passenger Boarding Bridges(Aerobridges) along with associated Visual Guidance Docking Systems'.

Bridges/Aerobridges are now specifically treated as goods required for development of airports which was the description contained in Condition No. 21 of Notification No.36/96-CUS as well.

Therefore, for our aforesaid reasons, we are of the view that the conclusion of the Tribunal does not call for any interference. The appeal is, accordingly, dismissed.

.....J.
[A.K. SIKRI]

.....J.
[ROHINTON FALI NARIMAN]

NEW DELHI;
OCTOBER 13, 2015.

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TEM NO.107

COURT NO.14

SECTION III

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 2728/2007

COMMR.OF CUSTOMS,MUMBAI

Appellant(s)

VERSUS

M/S AIRPORT AUTHORITY OF INDIA LTD.

Respondent(s)

Date : 13/10/2015 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Appellant(s) Mr. Yashank Adhyaru, Sr. Adv.
Mr. Shankar Divate, Adv.
Mr. Arijit Prasad, Adv.
Mr. Balaji S. Adv.
Mr. B. Krishna Prasad,Adv.

For Respondent(s) Mr. Bhaskar Vali, Adv.
Mr. Ramesh N. Keswani, Adv.
For M/s Keswani & Co.

UPON hearing the counsel the Court made the following
O R D E R

The Civil Appeal is dismissed in terms of the signed order.

Interlocutory Application(s) pending, if any, stands disposed
of accordingly.

(Ashwani Thakur)
COURT MASTER

(Renu Diwan)
COURT MASTER

(Signed order is placed on the file)