

JAGSON INTERNATIONAL LTD.
NT(S)

APPELLA

VERSUS

COMMISSIONER OF CUSTOMS, CHENNAI
ENT(S)

RESPOND

O R D E R

The appellant herein had imported one single "Deepsea Matdrill" and parts thereof. A Bill of Entry was filed for the aforesaid item under Heading 8905.20. The benefit of full exemption from payment of customs duty was sought for under Notification No. 133/87. The respondent/Department, however, did not release the goods on the basis of the said classification. Before any adjudication could take place about the classification of the imported goods, the appellant filed a suit bearing No. 481/1993 before the Civil Court in which an ex-part e interim injunction was passed restraining the Customs Authori ties from causing obstruction in the movement and operation of the aforesaid goods to the concerned sites. It was, however, mentioned in the said order that the said material shall be used in Indian Waters and customs duty shall be paid at 30%.

Under the strength of the said order, the appellant removed
Signature Not Verified

the aforesaid item from the Port Trust. No duty was paid. According
Digitally signed by
ASHWANI KUMAR
Date: 2015.08.27
13:39:58 IST
Reason:

to the appellant, the customs duty was payable unde
r Heading

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8905.90. Thereafter the suit was withdrawn.

Though the eventualities which took place thereafter in the form of second suit and the proceedings are quite lengthy but we need not to give details of all these developments. Suffice it to state that later on show cause notice was issued on 27.05.1995 wherein it was mentioned as to why the said goods be not covered under Heading 8905.20 as "floating or submersible drilling or production platform". Reply to the show cause notice was filed. According to the Department, the goods were removed without permission from the proper Officer and the same were liable to confiscation under Section 111(j) of the Customs Act (hereinafter referred to as "the Act"). After giving hearing to the appellant, the demand in the show cause notice was confirmed. The demand of duty was made. The goods were confiscated and were allowed to be redeemed on the payment of Rs. 5 crores as redemption fine and penalty under Section 112(a) of the Act to the tune of Rs. 2 crores was also levied.

The appellant filed an appeal against the said order before Customs, Excise & Service Tax Appellate Tribunal (hereinafter referred to as "the Tribunal"). The Tribunal has confirmed the order of the Commissioner and partially allowed the appeal of the appellant vide its decision dated 27.02.2006. Challenging the order dated 27.02.2006, the present appeal is filed.

Insofar as classification is concerned, the order of the Commissioner was maintained. However, the Tribunal came to the conclusion that even if the goods fall under Heading 8905.20, the appellant was entitled to the benefit of another exemption

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Notification i.e. Customs Notification No. 196/89, according to which concessional rate of duty to be paid at 30%. To this extent benefit is given to the appellant.

We are of the opinion that it is not necessary to go into the dispute in detail. Reason is that, during the pendency of proceedings before the Commissioner, the appellant had approached the authorities under Kar Vivad Samadhan Scheme and volunteered to

pay the duty at 30% on the premise that the goods were classifiable under Heading 8905.20 and the Customs Notification No. 196/89 shall be applicable and, therefore, the appellant showed readiness for payment of duty at 30%. No doubt, its application under Kar Vivad Samadhan Scheme was rejected. However, this benefit has been extended by the Tribunal. Once this relief is given by the Tribunal, we are of the view, that no further relief is required to be given to the appellant in the facts of the present case.

The appeal is, accordingly, dismissed.

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

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

NEW DELHI;
AUGUST 20, 2015

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ITEM NO.103 COURT NO.13 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). 2517/2006
JAGSON INTERNATIONAL LTD. Appellant(s)
VERSUS
COMMISSIONER OF CUSTOMS, CHENNAI Respondent(s)
(with office report)

Date : 20/08/2015 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. S.K. Bagaria, Sr. Adv.
	Mr. K. Ajit Singh, Adv.
	Mr. Sanjeev Mahajan, Adv.
	Ms. Prerna Mehta, Adv.
For Respondent(s)	Mr. Jaideep Gupta, Sr. Adv.
	Mr. P.K. Mullick, Adv.
	Mrs. Nisha Bagchi, Adv.
	Ms. Aruna Gupta, Adv.
	Ms. Sujeeta Srivastava, Adv.
	Mr. B. Krishna Prasad, Adv.

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

The appeal is dismissed in terms of the Signed Order.

(Ashwani Thakur)
COURT MASTER

(Renu Diwan)
COURT MASTER

(Signed order is placed on the file)