

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NOS.6623 OF 2005

COMMISSIONER OF CUSTOMS, AMRITSAR

APPELLANT (S)

VERSUS

M/S. ESS KAY INTERNATIONAL

RESPONDENT (S)

O R D E R

Show cause notice dated 25.11.1999 was issued to the respondent herein on the ground that while export of "knitted wollen shawls (Dyed)" as an obligation under the Advance Licence No.P/L/0021136 dated 08.05.1997, the respondent filed Shipping Bill No.4319 dated 22.05.1999 wherein there was a mis-declaration in respect of the quantity as well as description of the goods. The consignment was seized and taken into possession by the customs staff and action was taken against the respondent when it was found that there was a mis-declaration of goods. Since under the aforesaid Advance Licence, the respondent was also under the legal obligation to export knitted wollen shawls (Dyed) manufactured out of 5,000 kg. wollen yarn which was imported duty free, the appellant demanded excise duty.

In the appeal against the said order, the Customs Excise and Service Tax Appellate Tribunal, New Delhi (for short "CESTAT") confirmed the findings of the Adjudicating Authority in so far as

they pertained to the mis-declaration in respect of quantity as well as description of the goods in the Shipping Bill No.4319 dated 22.05.1999. However, at the same time, the CESTAT also found that the export obligation was complemented by the respondent when another export consignment on 31.05.1999 which was cleared on 17.07.1999 vide Shipping Bill No.00325/99 dated 31.05.1999 at ICD, Chherata, Amritsar and, therefore, no duty could be demanded on the ground that the respondent had committed breach in the discharge of export obligation.

In so far as mis-declaration in respect of quantity as well as description of the goods in Shipping Bill No.4139 dated 22.05.1999 is concerned, after confirming the findings to that effect, the CESTAT reduced the redemption fine to Rs.3,00,000/- lakhs and personal penalty of Rs.2,00,000/-.

We are not inclined to interfere with the discretionary power exercised by the CESTAT in the given facts and circumstances of the case.

The appeal is accordingly dismissed.

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

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

New Delhi;  
July 16, 2015.

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G SCivil Appeal No(s). 6623/2005

COMMISSIONER OF CUSTOMS, AMRITSAR

Appellant(s)

VERSUS

M/S. ESS KAY INTERNATIONAL

Respondent(s)

Date : 16/07/2015 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. K. Radhakrishna, Sr. Adv.

Ms. Binu Tamta, Adv.

Ms. Nisha Bagchi, Adv.

Ms. Pooja Sharma, Adv.

Mr. B. Krishna Prasad, Adv.

For Respondent(s)

Mr. Nikhil Jain, Adv.

UPON hearing the counsel the Court made the following  
O R D E RThe civil appeal is dismissed in terms of the signed  
order.(Ashok Raj Singh)  
Court Master(Suman Jain)  
Court Master

(Signed order is placed in the file)