

Customs, Excise and Gold Tribunal - Mumbai

Oil & Natural Gas Corporation Ltd. vs Commissioner Of Customs, Sheva on 10 August, 2001

Equivalent citations: 2001 (134) ELT 674 Tri Mumbai

ORDER Gowri Shankar, Member (Technical)

1. The appeal is against the penalty of Rs. 15 lakhs imposed under Section 112 of the Act on the appellant. The Commissioner had imposed a penalty on the finding that Oil and Natural Gas Commission (as it then was) used as a base for loading and unloading for storage of imported goods and goods to be sent to offshore drilling rigs located outside India, an area at Nhava which was not notified as a customs port under Section 7 or Customs area under Section 8 of the Act.
2. The Commissioner has concluded in his order that the charge against the Commissioner, that it used the concerned area at Nhava without the permission required by law stands established. It has noted the ground that was taken by the appellant before him that when it commenced using the area as a base, it wrote a letter on 25.3.88 to the department to use the base on the same footing as it had earlier used the shed at 12, Victoria Docks, and that the department did not raise any objection. The same argument is raised before us by the counsel for the appellant.
3. It is no doubt, true that the Commission had asked the customs department for permission and the department has tardy in replying the request. However, it does not follow from this that the Commissioner was entitled to use the base. The law required the area to be notified as a customs port under Section 7 and the particular area in which materials were kept without payment of duty to be notified as a customs area under Section 8. If the Commission wished to use the area for these purposes, it was incumbent upon it to obtain the permission. The fact that it informed the department of its intentions, and the department did not promptly reply may justify leniency but cannot be relied upon to say that penalty is not imposable at all. These considerations are also true of the claim that the appellant was a central government undertaking.
4. Having regard to these facts, we think it appropriate to reduce the penalty imposed on the Commission from Rs. 15 lakhs to Rs. 7.5 lakhs.
5. The appeal is allowed in part.