

Customs, Excise and Gold Tribunal - Delhi

Gilt Pack Ltd. vs Commissioner Of Customs on 3 November, 1999

Equivalent citations: 2000 (115) ELT 514 Tri Del

ORDER C.N.B. Nair, Member (T)

1. The appellant, Gilt Pack Ltd. filed a Shipping Bill No. 0594054061, dated 13th May, 1996 for export of "Polypropylene Woven Fabrics - PP Woven Sacs in size 50/70 cms., 12 x 12 mesh white colour." The invoice covering the export goods also contained the same description. The export was under DEEC scheme and the appellant had imported raw material, namely polypropylene granules without payment of duty. On examination of the goods, the Customs Authorities found that the export goods were sacs. They, therefore, alleged that the goods had been misdeclared, inasmuch as, what was declared in the shipping bill was polypropylene woven fabrics. The DEEC Licence produced for endorsement was also for export of polypropylene fabric. The appellant explained that they had made no mis-declaration of the export goods at all, inasmuch as, "P.P. Oven (sic) sacs in size 50/70 cm." also formed part of the declaration of the goods in shipping bill as well as in the invoice. They also explained that a lengthy description of the goods, including as polypropylene woven fabric, was given in the export documents only because the export order had described the goods in those terms. The export order had described the goods as 3,25,000 Polypropylene woven fabric to Iran. The export order also had in the size column described the goods as PP Woven sacs in size 50-75 cms. Thus, their effort was only to ensure that the export goods were described in the same manner in the shipping documents as in the purchase. With regard to the DEEC Licence, they submitted that they were in possession of DEEC Licences both for export of Polypropylene fabric as well as polypropylene sack. The raw material for both the products was one and the same, namely polypropylene. Therefore, the production of DEEC Licence for export of fabric was only a mistake. This was of no consequence as they had licence for sacs also. During arguments, it was submitted that the goods were exported subsequently, after adjudication proceeding and correct DEEC Licence had been debited also.

2. The impugned order has confiscated the goods valued at about Rs. 15 Lakhs with redemption fine of Rs. 2 lakhs and a penalty of Rs. 50,000/- on a charge of mis-declaration. This is to exclude the portion "PP Woven sacs in size 50/70 cms." from the description of the goods in shipping bill and invoice. When the full description of the goods is read together, it is clear that the goods under export, was sacs. Therefore, there was no factual basis to the finding that the export goods had been misdeclared. Accordingly, the confiscation and imposition of penalty were not warranted. The appeal is therefore, allowed and the impugned order is set aside in its entirety with consequential relief, if any, to the appellant.