

Customs, Excise and Gold Tribunal - Mumbai

Eastern Traders Corporation vs Cc on 15 April, 2002

Equivalent citations: 2002 (104) ECR 1069 Tri Mumbai, 2002 (150) ELT 738 Tri Mumbai

Bench: S T Gowri

ORDER Gowri Shankar, Member (T)

1. The appeal is against the order of the Commissioner (Appeals) confirming the finding of the Asst. Commissioner, that the metal measuring tape that the appellant imported were consumer goods, and in the absence of licence required for their clearance ordering their confiscation with an option to on payment of fine.

2. Counsel for the appellant does not seek to question the finding of the consumer goods. He relies upon a clarification dated 15.5.1992 issued by the Dy. Chief Controller of Import and Exports, Delhi. This clarification issued in terms of the Export and Import Policy 1992-97 provides as follows in the second paragraph.

It is hereby clarified that as per Export and Import Policy, 1992-97, the items allowed earlier under OGL or against scrips are allowed to be imported freely without a licence. Licence is required only in respect of specified items included in the Negative List of Imports incorporated in the Export and Import Policy, 1992-97. Hence the items not included in the Negative List of Imports may be permitted freely without a licence especially those items which had been shifted earlier from the Restricted list (Appendix 2-B) to Appendix 3 (Part A and B) or OGL, as the case may be, prior to the announcement of new policy. It may be further stated that Buttons, Snap and Zip Fasteners are freely importable without import licence and would not be treated as consumer items falling within the scope of Negative List of Imports of the current Export and Import Policy.

3. Counsel for the appellant also draws my attention to the ITC public notice 240/90 dated 31.10.1991. This clarification makes various amendment to the policy. Entry 35 deletes the entry in appendix 2 of part B of measuring rules and tapes-metallic, non-metallic and steel including etched/printed loose tapes at random lengths. Entry 67 of this public notice introduces itself 644B for the same goods for the same items in appendix 3 part A. Thus counsel says the goods were shifted earlier from appendix 2 part B to appendix 3 part A and this was done prior to 1992-97 policy in April 1992. Therefore the goods would not be treated as consumer goods falling within the scope of negative list of imports.

4. The departmental representative is not able provide an answer to this argument. Accordingly, it appears this contention has to be accepted and the clarification of the licensing authority.

5. The appeal is accordingly allowed and the impugned order set aside.