

Supreme Court of India

Union Of India (Uoi) And Ors. vs Ram Narain Bishwanath And Ors. on 5 December, 1996

Equivalent citations: 1997 (96) ELT 224 SC, (1998) 9 SCC 285

Bench: S Bharucha, S Sen

ORDER

1. The respondents do not appear.
2. The goods imported by the respondents were cleared at the Paradip port in the State of Orissa. The goods were then transported to Howrah in the State of West Bengal and were seized there by the Customs authorities in West Bengal on the ground that they had been imported on the strength of fictitious licences. In proceedings consequent upon the seizure it was held that the goods had been imported on fictitious licences and were liable to confiscation. The Customs, Excise and Gold (Control) Appellate Tribunal, in the order under appeal, held that the Customs authorities in West Bengal had no jurisdiction to pass such order.
3. There had also been certain proceedings in the Calcutta High Court, with which we are not here concerned, except to note that the High Court had ordered the appellants to refund the amount of Rs 50 lakhs paid to them by the respondents in connection with the aforesaid proceedings before the West Bengal Customs authorities with interest. When leave to appeal was granted, this Court directed that the respondents would be entitled to the said refund provided they furnished adequate security to the satisfaction of the Registrar, Calcutta High Court, on the original side, for repayment of the refunded amount.
4. It seems to us, having regard to the facts set out above, clear that it was for the Customs authorities at Paradip to initiate proceedings against the respondents on the ground that the goods had been imported on fictitious licences and not for the Customs authorities in West Bengal to do so.
5. Learned counsel for the appellants states that appropriate action in this behalf shall be initiated by the Customs authorities in Paradip within 6 weeks from today. If such action is in fact initiated against the respondents within 6 weeks from today, the security furnished to the satisfaction of the Registrar as aforesaid shall be kept alive until the proceedings so initiated are concluded and for a period of 4 weeks thereafter. In the event that the respondents had not furnished such security, so that no refund of the said amount of Rs 50 lakhs and interest has been made, the said amount and interest shall be retained by the Registrar to be available to the Customs authorities in the event the proceedings so initiated are decided against the respondents. Having regard to the special facts of this case the defence of limitation shall not be available to the respondents in the said proceedings.
6. The appeal is allowed accordingly, with no order as to costs. In Civil Appeals Nos. 3459-60 of 1988
7. The order that we have just passed in CA No. 1553 of 1987 applies to the facts of this case. The valuation of the goods, they having been cleared in Bombay, could only have been decided by the

Customs authorities in Bombay. While, therefore, we uphold the order of the Tribunal to this effect, we give liberty to the appropriate authority of Customs in Bombay to initiate proceedings, if so advised, against the respondents in the matter of valuation of the goods. The same must be done within six weeks from today.

8. Order on the appeal accordingly. No order as to costs.