

GRAM.: CEGCANAL

REGISTERED/A.D

THE CUSTOMS, EXCISE & GOLD (CONTROL) APPELLATE TRIBUNAL,

West Block No. 2, R.K. Puram, New Delhi - 110066.

BENCH-NB(SM)

Appeal No. C/347/99/NB(SM)

Dated : 28/2/2001

CEGAT
NEW DELHI
To,

M/s Milton Laminates (P) Ltd
B4/56, A, Keshav Pura,
Lawrence Road,
Delhi - 110035

In the matter of :

M/s Milton Laminates (P) Ltd

Appellant

vs.

CC Ahmedabad

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/325/01/NB(SM)
Dated : 22/2/2001 passed by the Tribunal under Section 35-C(1) of Central Excise
& Salt Act, 1944/Section 129 (B) of the Customs, Act, 1962.

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JU
Asstt. Registrar
NB(SM)

1. CC Ahmedabad
2. CCE/CC/(Appeal) Ahmedabad
3. Chief Commissioner of Central Excise / Customs. Ahmedabad
4. Adv./Consult. JS Agarwal, Adv
S-187, Greater Kailash-2
New Delhi - 48
5. S.D.R-NB(SM)
6. JCDR
7. Bar Association, CEGAT, New Delhi
8. Library, CEGAT, New Delhi
9. Director (Review), C.B.E.C. North Block, New Delhi
10. Guard File.
11. M/s Deeparchic Publications, M-93, Marg-46, Saket, New Delhi.
12. M/s Centax Publications (P) Ltd., 1512-E, Bhisim Pitamah Marg, opp. Sachdeva P.T. College of Defence Colony, New Delhi-110003
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Asstt. Registrar NB(SM)

**In the Custom, Excise & Gold (Control) Appellate Tribunal
New Delhi**

C/347/99/NB(SM)

APPEAL NO.....OF 19 (.....)

ARISING OUT OF ORDER IN ORIGINAL/APPEAL NO.

672/99(IP3-CCP/CUS/Commr.(A) DATED 28.5.1999

PASSED BY.....COMMISSIONER OF CUSTOMS, (APPEALS)

AHMEDABAD

25-1-2001

Date of decision.....

M/S MILTON LAMINATORS (P) LTD. APPELLANT (S)

Represented by Sh./Smt. J.S. AGRAWAL, ADVOCATE.....

VERSUS

CC. AHMEDABAD.....RESPONDENT (S)

Represented by Sh./Smt. S.C. PUSHKARNA, JDR

CORAM :

SH. V.K. AGRAWAL, MEMBER (TECHNICAL)

To be referred to the Reporter or not?

FINAL ORDER NO. A/325/01/NB (CP/M)

Per..... V.K. AGRAWAL:

The issue involved in this appeal, filed by M/s Milton Laminates (P) Ltd., is whether the decorative laminated sheets, submitted for export by them, are liable for confiscation and penalty under Section IV of the Customs Act is imposable on them for mis-declaring the weight of the impugned goods.

2. Shri J.S. Agarwal, ld. Advocate, submitted that in the Shipping Bill No. 18775 dt. 08-11-96 under the D.E.E.C. Scheme, the Appellants declared the weight of paper based decorative laminated sheets as 725gms per sq. meter; that on examination of sample the weight was found to be 681 gm per sq. meter; that the Deputy Commissioner confiscated the proportionate export consignment valued at Rs. 69,994 under Section 113(d) of the Customs Act with an option to redeem the same on payment of fine of Rs. 35,000/- and imposed a penalty of Rs. 10,000/- holding that shortage in weight was much higher i.e. 6.07% as against norm of 2.5% and there was misdeclaration in the weight of the goods and thereby attempting to misuse the benefit of D.E.E.C. Scheme. The ld. Advocate, further, submitted that weight variance had resulted because of the more back side sanding of the sheets which was necessary for better adhesive purposes; that there was no revenue implication since duty was on advalorem basis; that weight variance does not attract provisions of Section 113(d); that there is no prohibition on account of which provisions of Section 113(d) can be invoked, and accordingly confiscation under Section 113(d) is illegal.

3. Shri S.C.Pushkarna, Ld. DR, reiterates the findings as contained in the impugned Order in which Commissioner (Appeals) had mentioned that at the time of filing the Shipping Bill, the goods were ready for export and, therefore the Applicants were in a position to determine the actual weight of the goods; that the Appellants had misdeclared the weight of the goods meant for export under DEEC and accordingly goods were liable for confiscation.

4. I have considered the submissions of both the sides. As per provisions of Section 113(d) of the Customs Act, the goods shall be liable to confiscation if these are attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force. Thus it is apparent that for being liable to confiscation, they should be brought within the limits of customs area contrary to any prohibition. The Revenue has not brought out on record any prohibition under the Customs Act or any other law for the time being in force contrary to which the impugned goods were brought into Customs Area for the purpose of being exported. Accordingly the

impugned goods are not liable to confiscation under Section 113(d) of the Customs Act. I, therefore, set aside the confiscation and consequential ~~redemption~~ fine. As the Appellants had misdeclared the weight per sq. Meter, a penalty is imposable on them. The ends of justice will be met if they are asked to pay Rs. 1000/- as penalty and I Order so. The Appeal is allowed in these terms with consequential relief, if any.

(V.K.AGRAWAL)
MEMBER (TECHNICAL)

Sunita

22-2-2001