

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 16721 of 2016 (O&M)

Date of decision: 9.9.2016

M/s R. G. Gupta & Company

..... Petitioner

VS

Union of India and others

..... Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr. Saurabh Kapoor, Advocate, for the petitioner.
Mr. R. K. Handa, Advocate, for respondent nos. 1, 4 to 7.
Mr. Amit Goyal, Advocate, for respondent nos. 2 and 3.

Rajesh Bindal, J.

The petitioner has approached this Court challenging the detention of the goods imported by the petitioner as Heavy Melting Scrap and Re Rollable Steel Scrap. The goods were inspected by the Chartered Engineer appointed by the Customs Department. The opinion expressed was that the goods fall in the category of Seconds & Defective CRGO Silicon Steel Strips in Slit Coil Form and Seconds and Defective Cold Rolled Grain Oriented Steel Sheets/ Strips cut to different shapes and sizes.

The submission of learned counsel for the petitioner is that the consignments imported are of scraps, which are to be sold to the steel furnaces for melting. Even as per the report of the Chartered Engineer, the goods varied in thickness, length and width. If the department is of the opinion that the goods can be re-used after cutting/ punching to the required

size and shapes, the petitioner is ready to get the same mutilated at his own cost. Thereafter, these can be used only for melting. He further submitted that after the goods are released provisionally, he will respond to any notice issued regarding violation of any law. He referred to earlier order passed by this Court in CWP No. 20328 of 2011 M/s Raja Iron Store vs Union of India and others decided on 13.12.2011.

On the other hand, learned counsels for the respondents submitted that as per the report of the Chartered Engineer, some of the goods were found to be appearing fresh or not used. It was further opined by the Chartered Engineer that the material is serviceable which can be used for many applications after cutting/ punching to the required sizes and shapes. There being mis-declaration, the petitioner would be liable to action under the Customs Act. The goods have been undervalued as well. He further submitted that the report from the Laboratory has not yet been received.

Heard learned counsel for the parties and perused the paper book.

The claim of the petitioner is that he had imported Heavy Melting Scrap and Re Rollable Steel Scraps. As per the report of the Chartered Engineer appointed by the Department for two containers, he opined that the contents thereof were New Cold Rolled Grain Oriented Steel Strips In Slit Coils Form of different width, thickness and length. The width was ranging from 30 mm to 290 mm. The thickness was ranging from 0.23 mm to 0.30 mm. He further opined that the material was serviceable and can be used for many applications. He further opined that the slit coils fall under the category of Seconds & Defective CRGO Silicon Steel Strips in

Slit Coil Form. For two containers, the Chartered Engineer opined that the contents consist of Cold Rolled Grain Oriented Steel Sheets/ Strips cut to different shapes and sizes (Trapezoidal Ends). It was further opined that the material is serviceable and can be used for many applications after cutting/ punching to the required sizes and shapes and may be categorised as Seconds and Defective Cold Rolled Grain Oriented Steel Sheets/ Strips cut to different shapes and sizes. In another three containers, the material was found to be of different dimensions such as width, thickness and length, which were found to be serviceable, which can be used for many applications after cutting/ punching to the required sizes and shapes and may be categorized in the category of Seconds and Defective Cold Rolled Grain Oriented Steel Sheets/ Strips cut to different shapes and sizes. There is difference of opinion between the petitioner and the respondents regarding the material being scrap or it can be used as such. Even as per the opinion expressed by the Chartered Engineer, the material can be used after cutting/ punching, but it was in the category of Seconds and Defective material.

To take care of the apprehension expressed by the Department that the material can be re-used, the petitioner had offered its mutilation at his own cost before it is released. Even part of scrap also can be used as such or with some modification. In our opinion, the petitioner should be permitted to do that. Thereafter, the goods be released on provisional basis. The Department shall be at liberty to issue show cause notice to the petitioner for any alleged violation of the provisions of the Customs Act. The petitioner will pay the duty on the material imported as scrap and further furnish surety and undertaking to pay the duty, penalty and interest,

if any, as may be leviable on such goods, if these are found to be other than scraps.

Disposed of accordingly.

(Rajesh Bindal)
Judge

9.9.2016
vs

(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No