OD-4

ORDER SHEET

CUSTA 33 of 2019
IA No. GA/2/2019 (Old No.GA/2659/2019)

IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction (Customs)
ORIGINAL SIDE

COMMISSIONER OF CUSTOMS (PREVENTIVE), WEST BENGAL, KOLKATA
Versus
SUBIR ROY SOLE PROPRIETOR OF M/S. M.N. ROY AND SONS

BEFORE:
The Hon'ble JUSTICE I. P. MUKERJI
The Hon'ble JUSTICE KAUSIK CHANDA
Date : 14th December, 2020.

Appearance:
Mr. K.K. Maity, Adv.
Mr. Bhaskar Prosad Banerjee, Adv.
Ms. A. Rajyashree

Dr. Samir Chakraborty, Sr. Adv.
Mr. Bhaskar Sengupta, Adv.
Mr. Abhijit Biswas, Adv.

The Court: This is an appeal under Section 130 of the Customs Act, 1962 against the order dated 9th October, 2018 passed by Customs, Excise and Service Tax Appellate Tribunal (East Regional Bench), Kolkata.

We have gone through the reformulated points of law. The formulated points of law by learned counsel are as follows:-

1. Whether the respondent is entitled to export the unfinished leather goods by availing the benefits of Notification No.133/2000/Cus dated 17.10.2000 read with DGFT Public Notification being no.3/ETC(P.N.)92-97 dated 27.05.1992?
2. Whether the learned tribunal has committed gross error by considering the export goods as “finished goods” in terms of ITC Public Notice, though the said public notice speaks about “industrial leathers”?
3. Whether the statement of the proprietor made under Section 108 of the Customs Act, 1962 can be considered as admissible evidence when there is no rebuttal of the same?

4. Whether the learned tribunal's observation is perverse, wrong and erroneous by setting aside the adjudication order dated 29.02.2008?

The only question is whether the leather goods in question were "unfinished" or " finished" for the purpose of availing of the benefits of the notifications mentioned above.

The learned tribunal has come to a specific finding that the goods in question were finished leather in accordance with the above notifications. This is a judging on facts. The tribunal is the final fact finding authority.

We find no perversity or unreasonableness in this fact finding. No question of law, far less any substantial question of law, is involved.

We do not think it fit to admit the appeal. Accordingly the appeal (CUSTA 33 of 2019) and the connected application, GA/2/2019 (Old No.GA/2659/2019) are dismissed.

(I. P. MUKERJI, J.)

(KAUSIK CHANDA, J.)

cs.