

TaxHelpline Case No. 183 of 2013

[LAHORE HIGH COURT]

Writ Petition No. 18406 of 2011, decided on 12th June, 2012

Before Ijaz ul Ahsan, J.

Mian Abdul Ghaffar for Applicant. Sarfraz Ahmad Cheema for Respondent

**Messrs BILAL ENTERPRISES through Proprietor
Vs**

**FEDERATION OF PAKISTAN through Secretary, Revenue
Division, Islamabad and 4 others**

ORDER

IJAZ UL AHSAN, J.---The main petition as well as C.M. No.1 of 2012 are fixed for hearing today. With the consent of the learned counsel for both parties, the petition is admitted for regular hearing. Both learned counsel pray that the petition be heard and decided today, since a short question is involved.

2. The case of the petitioner is that it had imported certain goods from abroad. The goods were evaluated for the purpose of tax on the basis of valuation Ruling No.350 dated 2-7-2011.

3. According to the learned counsel for the petitioner, in passing the aforesaid valuation ruling, the provisions of Section 25 of the Customs Act, 1969 were not followed. This led the petitioner to file the instant petition before this Court. During pendency of the petition, interim relief was granted by way of a direction that the goods be released on the basis of a calculation against declared value of the imported goods and submission of postdated cheques for the differential.

4. It appears that upon being approached by the petitioner as well as the Chambers of Commerce, the matter of valuation Ruling No. 350 dated 2-7-2011, being erroneous, was referred to the Director Valuation, before whom the petitioner as well as other affected parties had filed a review petition under section 25-D of the Customs Act, 1969. The Director Valuation (respondent No.3) heard the parties, reconsidered the matter and came to the conclusion that the valuation Ruling No.350 needed to be revised. Consequently, he issued valuation Ruling No.402 dated 29-9-2011 giving fresh valuation rates for the purpose of calculation of customs duties.

5. The learned counsel for the petitioner submits that in view of the fact that a competent authority of the department itself has revised its earlier ruling and rates now determined by the Director are reasonable and fair, it may be ordered that the consignments of the petitioner, which have already been cleared by virtue of an interim order passed by this Court, be evaluated on the basis of fresh valuation Ruling No.402 dated 29-9-2011 and the matter be settled. He adds that the respondents may be directed to finalize the provisional assessment on the basis of the latest ruling in this regard.

6. The learned counsel for the respondent opposes the request. He submits that the latest valuation Ruling No.402 dated 29-9-2011 cannot be retrospectively applied as its operation is prospective only. He submits that the goods declaration was filed on 18-7-2011 whereas valuation ruling in question has been issued on 29-9-2011. Consequently, the later ruling has no application to the consignment which was valued on 18-7-2011.

7. I have heard the learned counsel for the parties and examined the record. It is clear and obvious that the valuation Ruling No. 350 dated 2-7-2011 was sought to be revised by way of revision application. The subsequent ruling is a result of such revision and would be deemed to have taken effect from the date when the original ruling was given. There is no lawful or logical reason to burden the petitioner with the effects of an evaluation ruling, which

the department itself found to be erroneous. The argument of the learned counsel for the respondent that the subsequent ruling cannot have retrospective effect has not impressed me.

8. It is settled law that the benefit of ambiguity or error, if any, relating to status or the interpretation of ruling must go to the tax payer. Further, the department itself has, after considering all facts and circumstances, come to the conclusion that the rates fixed in the earlier ruling were excessive and there is consensus between the parties that the subsequent ruling is based upon all relevant factors as incorporated and visualized in section 25 of the Customs Act. I, therefore, find substance in the argument of the learned counsel for the petitioner that it is just and fair that his provisional assessment be finalized on the basis of latest Ruling No.402 under section 25-A of the Customs Act, 1969. Even otherwise, it is just and fair that the petitioner may be given the benefit of the revised ruling.

9. For the afore-noted reasons, I direct the respondents to finalize the provisional assessment of the petitioner, relating to G.D. Nos. H.C. 73 dated 19-7-2011, H.C. No.761 dated 20-7-2011 and H.C. No.1387 dated 2-8-2011, on the basis of valuation Ruling No.402 dated 29-9-2011. The petition is allowed in the afore-noted terms.

Order accordingly

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