

Bill of lading not basis of customs duty

Valuation of goods for Customs duty should be done only at the time and place of importation and it should not be based on the bill of lading but on goods arriving in India. The Supreme Court rejected the argument of the Commissioner of Customs that the quantity mentioned in the bill of lading should be the basis of payment of duty, not the quantity actually received in this country. The Customs appellate tribunal had upheld the view of the Customs authorities, but the Supreme Court said that the tribunal had “lost sight of the first principles”. It stated in its judgment, in *Mangalore Refinery and Petrochemicals vs Commissioner of Customs*, that the tribunal was wrong in holding that a levy in the context of import duty can only be on imported goods, that is, on goods brought into India from a place outside of India. Till that is done, there is no charge to tax. Explaining the law further, the judgment stated that the taxable event in the case of imported goods is “import”.

The taxable event in the case of a purchase tax is the purchase of goods. The quantity of goods stated in a bill of lading would perhaps reflect the quantity of goods in the purchase transaction between the parties, but would not reflect the quantity of goods at the time and place of importation. A bill of lading quantity, therefore, could only be validly looked at in the case purchase tax but not in the case of an import duty. Moreover, the judgment pointed out that where goods which are imported are lost, pilfered or destroyed, no import duty is leviable on it until they are out of Customs and come into the hands of the importer. It is clear, therefore, that it is only at this stage that the quantity of the goods imported is to be looked at for the purposes of valuation, the judgment declared.

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