

Relied upon document - verbal communication?

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The Judge asked, ¶Tell me, what is the Criminal charge against the accused?¶ The Prosecutor replied, ¶His neighbour feels this fellow is a criminal¶. Judge asked, ¶Neighbour feels!!! Is there any proof of guilt?¶ The prosecutor replied, ¶No, My Lord! It is only a gut feel. But the neighbour is a distinguished person!¶ The Judge threw, both the case and the prosecutor, out of the Court!

This is not an imaginary scene but a real nightmare! DDT came to know of a spate of show cause notices issued to assesseees, based on frivolous grounds, across the Central Excise Commissionerates of South India. The facts are :

A merchant exporter has procured cotton yarn from various spinning mills, following the prescribed procedures (B1 bond, CT 1, etc). All these goods were consigned to various destinations in Bangladesh. Subsequently, all the necessary documents and endorsements required for the ¶proof of export¶ have been duly obtained by the merchant exporter and the respective departmental officers have duly accepted the ¶proof of export¶.

Now, the Additional Director General, DRI, New Delhi receives a letter from the Embassy, stating that the goods exported by the said merchant exporter, have not reached the destinations. In the said letter, it is also mentioned that the said information is based on a ¶Verbal Communication¶ by the Commissioner of Customs, Benapole, Bangladesh. This letter has been duly communicated to the Departmental officers having jurisdiction over the various spinning mills, which had supplied the yarn to the merchant exporter.

Based on the said communication, the Department has religiously started issuing Show Cause Notices to the various spinning mills alleging that the exports have not taken place and has proceeded to demand duty from the spinning mills, for such exports made through the merchant exporter. There is no whisper, whatsoever, in the Show Cause Notices except the reliance based on the ¶Verbal communication¶.

Having got all the essentials to prove the exports have duly taken place and also having been issued with the ¶proof of export¶ by the department itself, the assesseees are aghast, as to how to defend their case! It is also learnt that, when the hapless assesseees approached the Colonels of the department for redressal, the officers made them run from pillar to post, finally suggesting a Royal Solution! ¶Approach the Embassy!¶ Even though ultimately the merchant exporter is going to fight and win the case, because of the fact that, except the ¶Verbal communication¶ there is no other extra evidence placed on record to prove that the exports are bogus, it shall take the pain and time of the adjudication process, to come out successfully. It is an easy guess that the issue may travel to the CESTAT to get redressed. Over and above, does anyone care for the irreparable loss of face, it shall cause to the merchant exporter with the spinning mills?

Service Tax - advertising agency -draft remains a draft?

It is nearly two months since the Board released a draft circular to the effect, ¶the amount paid by the advertising agency to the media for obtaining space for display or exhibition, being in the nature of input service used in providing the taxable service, is liable to be included in the value of the taxable service¶. This has caused the appropriate furore. Now has the government decided to bury the draft circular or go slow on it?

Say No to bribes

‘Say No to bribes...’ reads a poster on the wall of the Kolkotta V Central Excise Commissionerate after football coach Subhas Bhowmick, superintendent of Central Excise was arrested red-handed allegedly accepting a bribe of Rs 1.5 lakh from a businessman. The CBI raided Bhowmick’s Anti Evasion office and discovered that there had been a departmental enquiry against Bhowmik for allegedly offering bribe to one of his colleagues with a request to allow a businessman evade tax. The Commissioner of Central Excise Mr. Dutta told reporters that he had asked his officials to be more careful. What did he mean by ¶being more careful¶? . He clarified that actually what he told them was to be more honest and transparent. He is reported to have told newsman, ¶It is embarrassing for me as I am the head of the department. But can you tell me where there is no corruption? It’s everywhere.¶

Quarrel with a lawyer but you cannot get rid of him

Let us not be prejudiced against lawyers. As a matter of fact, but for 'lawyers, this Constitution would not have come into existence. They are contributing a lot to the world. We can quarrel every day with a lawyer but you cannot get rid of him nor dispense with his services. More often than not, he is the victim of reproach and unfortunate misunderstanding. He has done yeoman service to the cause of freedom. Therefore this power or this right must be conferred by

Statute. - Ananthasayanam Ayyanger in the Constituent Assembly.

Until tomorrow with more DDT

Have a nice day.

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