

**Weston Electronics Ltd. Vs. Cc**

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**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

**Decided On :** Dec-09-1998

**Reported in :** (1999)(83)LC435Tri(Mum.)bai

**Judge :** R T Lajja, A Unni

**Appellant :** Weston Electronics Ltd.

**Respondent :** Cc

**Judgement :**

1. Shri Rajiv K. Garg, Advocate at the very outset submits that as per his instructions the bank guarantee filed in pursuance of the High Court's order is alive. He undertakes to submit proof of the same with the Registry. Subject to the undertaking given by the Id. Advocate, we proceed to hear the matter.

2. In this appeal filed by M/s. Weston Electronics Ltd., the matter relates to the customs valuation in respect of the 500 pcs of Tape Deck Mechanism for Video Cassette Player and 500 sets of Moulded Cabinet and accessories of the Video Cassette Player imported by them under Invoice No. 6102 dated 15.6.1990 and No. 6093 dated 5.6.1990. The Customs sought to reject their declared value on the ground that the similar goods had been imported by M/s. Krison Electronics systems Ltd. at the higher prices. The matter was adjudicated by the Addl. Collector of Customs, who imposed a redemption fine of Rs. 4 lakhs and a penalty of Rs. 80,000/-.

3. Shri Rajiv K. Garg, Advocate appearing for the appellants submitted that the appellants had paid the correct price and there was no valid ground to reject their declared value. The Revenue had relied upon the invoice of another importer M/s. Krison Electronics Systems Ltd. but that invoice was itself doubted by the adjudicating authority. It was his plea that the declared value could not be discarded on the basis of a document whose authenticity and whose correctness was in doubt. He also submitted that the same invoice of M/s. Krison was the basis of rejecting their declared value in another matter where 125 pcs. of Tapes Deck Mechanism and sets of Moulded Cabinet and Accessories had been imported by them under bill of entry No. 7228 dated 15.11.1990 and that matter had come up before the Commissioner of Customs (Appeals), Mumbai and he had taken a view that the invoice of M/s. Krison Electronics Systems Ltd. could not form the basis for rejecting the declared value of the present appellants. He had set aside the impugned Order-in-Original in that appeal and had allowed the appeal of the present appellants. In particular, he referred to their plea taken before the original authority that the customs duty on the Tape Deck Mechanism was lower and that on plastic mounted cabinet was higher and in this manner as per the invoice of M/s. Krison overall lower duty had been paid by them as compared to the duty liability discharged by the present appellants.

4. In reply Shri K. Shiv Kumar, JDR submitted that in addition to the imports by Shri Krison, some other imports were also noticed by the customs where the prices declared were higher. He referred to the grounds taken by the adjudicating authority and reiterated the same.

5. We have carefully considered the matter. We find that the declared values of present appellants had been discarded on the ground that the prices declared by the another importer, M/s. Krison were higher. In the impugned order-in-original, the adjudicating authority had observed as under: The argument of the importer that in case of M/s. Krison Electronics Systems Ltd., plastic parts value is declared at US \$10 per cent set whereas plastic parts value in their case is US \$ 52 per cent and therefore plastic parts were under-invoiced in case of M/s. Krison Electronics Systems Ltd., to the extent of US \$ 42 per set can be investigated by the department. Suitable action for this has already been initiated.

It appears from the above observations of the adjudicating authority that the invoice of M/s. Krisons was suspect. The Id. Advocate had referred to their submissions dated 4.12.1991 at page 22 of the paper book where they had intimated that the customs duty on Tape Deck Mechanism was 142.25% while on Plastic Moulded Cabinet, it was 218.75%.

The Id. Advocate had submitted that in the invoice relied upon by the customs, the price of the cabinet has been un-declared leading to the collection of less revenue in view of the higher rate applicable thereon. He had referred to the compared rates and prices at page 26 of the paper book and had argued that if the prices of M/s. Krisons are adopted for both Tape Deck Mechanism and Plastic Moulded Cabinet then the revenue paid by them was higher than that paid by M/s. Krisons. The same invoice of M/s. Krisons dated 11.12.1989 had been discussed by the Commissioner of Customs (Appeals), Mumbai in subsequent import by M/s.

Weston Electronics and he had observed that as the evidence relied upon by the Department did not inspire confidence, there were no grounds for discarding the transaction value. He had approved the value as declared by the importers.

6. On careful consideration of the relevant facts on record, we do not agree with the view taken by the Id. Addl. Collector of Customs. We, therefore, set aside the amount of fine and penalty in this case.

7. As a result, the appeal is allowed. Ordered accordingly. Order dictated & pronounced in the Open Court on 9.12.1998.

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