

**Commissioner of Customs Vs. Ceat Ltd.**

**Commissioner of Customs Vs. Ceat Ltd.**

**SooperKanoon Citation :** [sooperkanoon.com/19539](http://sooperkanoon.com/19539)

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

**Decided On :** Oct-25-2000

**Reported in :** (2001)(73)ECC159

**Judge :** G Srinivasan, S T S.S.

**Appellant :** Commissioner of Customs

**Respondent :** Ceat Ltd.

**Judgement :**

1. This appeal has been filed by the Department making a plea that a valuation of the imported material which are claimed by the respondent at US \$ 470 PMT CIF was wrongly made and it should be fixed at US \$ 840 PMT CIF.2. The respondents before us imported 136 MTs Stearic Acid filed into bond Bill of Entry No. 12282 dt. 29.9.95. They also filed purchase order and letter of credit. The department did not agree with the value declared by the Respondent for purpose of assessment at transaction value resulting in the Order-in-Original being passed by the Assistant Commissioner increasing in the value to 840 PMT. The respondents filed an appeal before the Commissioner of Customs (Appeals) who by the impugned order rejected the case of the department and allowed appeal of the respondents. Hence the present appeal.

3. The Department's case as revealed in the grounds of appeal is that the appellate authority has failed to appreciate the normal transaction value in the course of International Trade because the goods were supplied at about 50% of

the ruling international price for Indonesian Origin. The whole transaction was irregular because it was not covered by the purchase order/contract; not covered by the letter of credit; Contemporaneous imports were taking place at the double price of the imported goods; and finally suitable explanation for such abnormal reduction in price was not offered by the respondent.

4. We have heard both sides. When we look into the grounds of appeal which is stated above that the same is not covered by any purchase order or contract. In our view it is wrong to contradict the case of the respondent in the above manner. It may be that one original contract might have expired. But fact that the goods have come in international trade where namely supplies had taken place. The goods had been received by the Respondents-purchasers. Law does not state that for effectuating such types of contract that there should be a written contract. The purchaser importer has received the goods in compliance of the terms offered and it was accepted referred to above.

Ordinary the sellers and the purchasers respondents agreed that the quantity of 136 MT would be in discharge of the expired contract and the price was fixed at that price namely US \$ 470 PMT. It may be true that international prices were going up. Normally no seller would give the goods at such a reduced price. The department is unable to produce any evidence in the case regarding payment of extra amount by the respondents importer to the foreign seller. If such evidence is procured then the case of the department would have a different picture but unfortunately that is not the fact here. Case of the department is that there was no purchase contract nor is it covered by the same letter of credit, therefore the transaction value cannot be accepted.

Therefore the case of the department is weak.

5. Moreover the grounds of appeal states about contemporaneous but import what are the particulars of import have to be disclosed specifically. The grounds of appeal as to the comparable nature of the quantity imported as well as the quantity of goods should be imported at a comparable level. Without these particulars we cannot accept the case of the department. We are therefore of the view that the entire grounds taken by the department lacks substance. Hence the appeal of the

department is dismissed.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**