

Commr. of Cus. (import) Vs. Uni Pharma India

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jan-10-2001

Reported in : (2001)(129)ELT271Tri(Mum.)bai

Appellant : Commr. of Cus. (import)

Respondent : Uni Pharma India

Judgement :

1. Today only stay application was listed for hearing. However, considering the issue involved, we take up the appeal itself for disposal with the consent of both the sides.
2. Mrs. Reena Arya, Id. SDR mentions that the Respondent M/s. Uni Pharma India had imported Dry Ginger of China Origin and declared the price at the rate of US\$ 800 PMT; that the Asstt. Commissioner relying on certain quotations and Bill of Entry No. 463, dated 2-6-1999 had enhanced the value to US\$ 1200 PMT; that the Commissioner (Appeals) in the impugned order has just set aside the Adjudication order without giving any reasons and it is being non speaking order she prays for the matter to be remanded to the Appellate Authority.
3. Countering the prayer, the Id. Advocate Shri Kumar submits that the value of the imported goods cannot be enhanced on the basis of quotation only and the Commissioner (Appeals) has discussed the matter fully and then only set aside the Adjudication order.

4. We have considered the submissions of both the sides. A perusal of the impugned order reveals that the Commissioner (Appeals) was of the view that principles of natural justice has not been followed as the order was passed ex parte and the report received from Directorate of Valuation was not given to the Respondents which prevented the importers from filing a suitable reply. We also observe that he has set aside the order by simply observing that enhancement of value is arbitrary and unjustified without assigning any reason. The impugned order is, therefore, a non speaking order. In the interest of justice, we are of the view that the matter should go back to the Appellate Authority to consider all the pleas which may be advanced by the importers and to pass a well reasoned order under the law. The documents relied upon by the Department for enhancing the value of the Dry Ginger also be given to the importers and sufficient time should be given to them for filing the reply.

5. The appeal as well as the stay petition are disposed of in the above terms.

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