Time Masters Vs. Commissioner of Customs

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SooperKanoon Citation : sooperkanoon.com/35704

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Jun-18-2004

Reported in : (2005)(179)ELT502Tri(Mum.)bai

Judge : J Balasundaram, A M Moheb

Appellant : Time Masters

Respondent : Commissioner of Customs

Judgement :
1. The above appeal arises out of the order of the Commissioner of Customs (Appeals) upholding the" adjudication order by which value of watch modules imported by the appellants herein in September, 1993 has been enhanced from the declared value of HK $ 0.32 per piece to HK $ 1.35 per piece; resulting in confirmation of duty demand of Rs. 22,85,857/-.

2. We have heard both sides. The reasons for loading the value are two fold: (i) the alleged admission of the importer that the value of the goods imported was ranging between US $ 0.19 to US $0.215 per piece FOB; 3. We have gone through the statement of Shri Joit Kumar Jain, proprietor of the importer which was recorded on different dates namely, 14/04/1994, 22/04/1994 and 24/05/1994 and we do not find any such admission. What has been stated by him on 24/05/1994 is that he was ready to accept delivery of about 5 lakhs pieces of watch modules from M/s. Artek Electronics for a price ranging from US $ 0.19 per piece to US $ 0.21 FOB Hong Kong. It is to be noted that the import in the present case was not

from M/s. Artek Electronics. Therefore the finding based upon the so called admission is not sustainable. Coming to the other piece of evidence we see substance in the appellant's plea that the goods imported by Triveni Industries, from M/s. Tamere Electronics, Hong Kong, at a price of HK $1.50 per piece (CIF) was for lesser quantity than the quantity imported by the appellants in September, 1993; that the invoice was for post parcel and the import took place about 6 months after the present import and therefore cannot be relied upon for the purpose of loading of value. Regarding the import in January, 1994 by the same appellant of watch modules @ HK $ 1.35 per piece, the examination report of those goods shows that they were branded goods and that value cannot be adopted for the goods in question. Hence Rule 5 of the Customs Valuation Rules, 1988, which has been applied in the present case is not applicable. We therefore set aside the impugned order and allow the appeal.