Prasad Enterprises Vs. Commissioner of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-21-2004

Reported in : (2004)(174)ELT343TriDel

Judge : S Kang, N T C.N.B.

Appellant : Prasad Enterprises

Respondent : Commissioner of Customs

Judgement :
2. Appellant filed these appeals against a common Order-in-Appeal passed by the Commissioner of Customs (Appeals), Mumbai. Appellant made import of "Acrylic Offcuts" and filed Bills of Entry declaring the price of US $ 400 per M.T. The goods were examined by the Customs authorities and the Customs authorities segregated the goods and enhanced the value of 'Acrylic Off-cuts' having width of 36" to US $ 450 PMT and width between 36" to 48" to US $ 615 PMT.3. The contention of the appellant is that the appellant imported Acrylic Offcuts and the contract price was US $ 450 PMT. The action of the Customs authorities for segregation of the goods which were Acrylic Offcuts is not sustainable and further the value was enhanced without any evidence regarding the contemporaneous import.

4. Learned SDR appearing on behalf of the Revenue submitted that after taking into consideration the width of the goods in question the value was enhanced taking into consideration of the other imports made by some other importers.

5. In this case, the value of Acrylic Offcuts was enhanced by the Revenue authorities. Commissioner (Appeals) held as under : "I have gone through the facts of the case and I find that the value was enhanced after detailed examination. The value of the Acrylic Offcuts having width up to 36" is taken as US $ 450 PMT and width between 36" to 38" is taken as US $ 615 PMT. These values were enhanced after taking into consideration several contemporaneous imports from the same country of origin. I also find that the appellant has not produced any evidence which proves that the duty on enhanced value was paid under protest. As such, it is appearing that they accepted the enhanced value and paid duty on the same. The court cases cited by the appellant are not relevant in this case, as the matter pertains to misdeclaration of value." 6. We find that there is no instance of import by the other importer showing the value as determined by the Customs authorities. Further, as the import was of Acrylic Offcuts, therefore, segregation of the goods is also uncalled for. As the value was enhanced without any basis and there is no evidence to show that the importer has paid over and above the value declared in the Bills of entry. Therefore, enhancement of value is unsustainable. The impugned order is set aside and the appeals are allowed. Appellants are entitled to consequential relief, if any, in accordance with law.