

**Mega Overseas Vs. Cc**

**Mega Overseas Vs. Cc**

**SooperKanoon Citation :** [sooperkanoon.com/36078](http://sooperkanoon.com/36078)

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

**Decided On :** Jul-28-2004

**Reported in :** (2004)(96)ECC49

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

**Appellant :** Mega Overseas

**Respondent :** Cc

**Judgement :**

2. The appellant filed these appeals against Order-in-Appeal passed by the Commissioner (Appeals). The common issue is involved in these appeals, therefore, the appeals are being taken up together. The appellant made import of LDPE processed granules and filed two Bills of Entry declaring the price as US \$ 390 PMT. The Custom authorities enhanced the value of US \$ 483.38 PMT in one case and US \$ 499.32 in respect of 2nd Bill of Entry. This enhanced price is accepted by the appellant and duty was paid accordingly. Thereafter, the Custom authorities issued notice to the appellant for further enhancement of nature of goods. The value of the goods imported was enhanced to US \$ 533.75 PMT and US \$ 544.99 PMT. The appellant contested second enhancement and the adjudicating authority confirmed the differential duty on the basis of enhanced nature of goods. The appellant filed appeals but the same were dismissed.

3. The contention of the appellant is that the second enhancement in respect of value of the goods imported by them is without any basis and in the demand

notice no ground is mentioned asking for differential duty.

4. The adjudicating authority confirmed the demand on the ground that in respect of reprocessed granules, the appellants are entitled for discount of only 35% and not for 41.5%.

5. The contention of the appellant is that they had imported reprocessed granules from the manufacturer was per the Standing Order No. 9/2000 issued by the Commissioner of Customs, New Delhi, they are entitled for discount up to 35% from the PLATT price, whereas as per original Standing Order No. 11/99 they are further entitled for 10% or more discount in case the import is made from the manufacturer. The appellant made import from the manufacturer, therefore, they are entitled for discount as per the Standing order.

6. We find that in the case on filing the Bill of Entry price was enhanced by the custom authorities. This enhancement is accepted by the appellant. Revenue again issue a notice for further enhancement of the price on the ground that the appellants are not entitled for 10% discount. We find as per the Para IV Standing Order No. 11/99 dated 27.12.99 import from the manufacturer is entitled for the discount of 10% from the PLATT Rate.

7. Further Para (VI) of Standing order allowed the discount of 25% from the PLATT price. This Standing order is amended by Standing Order No.9/2000 whereby Para VI is amended to the effect that in place of 25% discount a discount of 35% from PLATT price is allowed in respect of reprocessed granules. There is no amendment in respect of Para (IV) of Standing Order dated 27.12.99. Therefore, the disallowance of 10% discount in view of Para (IV) of Standing Order dated 27.12.99 is not sustainable. The impugned order is set aside and the appeals are allowed. The appellants are entitled for consequential relief, if any, in accordance with law.