

Commissioner of Central Excise Vs. Sanabil Impex (P) Ltd.

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jan-10-2005

Reported in : (2005)(183)ELT201TriDel

Judge : J Balasundaram, Vice-, A T V.K.

Appellant : Commissioner of Central Excise

Respondent : Sanabil Impex (P) Ltd.

Judgement :

1. The Revenue has filed the present appeal against the Order-in-Appeal No. 188/CE/APPL/KNP/04, dated 31-3-2004 by which the Commissioner (Appeals) has set aside the enhancement of the assessable value of the goods imported by M/s. Sanabil Impex (P) Ltd. 2. We have heard Shri S. M. Tata, learned SDR for the Revenue, and Shri T. D. Chopra, Representative, of the respondent company. The respondent had imported Brass Scrap Night and Ivory and filed Bill of Entry on 12-5-2000. The Additional Commissioner, under Order-in-Original No.25/02 dated 28-2-2002, enhanced the value of both the types of brass scrap on the basis of Floor Price Circular dated 13-12-1999 issued by the Mumbai Customs under which the minimum price of Brass Scrap Night has been fixed. The Commissioner (Appeals), however, under the impugned Order has set aside the Order-in-original on the ground that the transaction value has to be accepted for assessment unless the Department has evidence to prove that it is not the correct value and the burden of such proof lies on the Department and that there is no documentary evidence of contemporaneous assessment of like imported goods of similar quantity, quality

and from same place of origin at a higher price. The Commissioner (Appeals) has also given his specific finding that when no contrary evidence is available, the invoice price should have been accepted for the purpose of assessment. The Revenue has only contended in the grounds of appeal that the valuation of Brass Scrap Night and Ivory was determined on the basis of Floor Price Circular and such the upward revision of the assessable value was based on the reliable circumstances and not arbitrarily. It has also been contended that Rule 10A of the Customs Valuation Rules empowers the assessing officer to reject the declared value.

3. We have considered the submissions of both the sides. As per the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988 the value of imported goods shall be the transaction value. The transaction value of imported goods shall not be acceptable only when anyone of the ingredients specified in Sub-rule (2) of Rule 4 of the Customs Valuation Rules is in existence. It is not the case of the Revenue that anyone of the ingredients specified in sub-Rule (2) of Rule 4 is applicable to the facts of the present matter. Revenue has relied upon the Rule 10A of the Valuation Rules which provides that when the proper officer has reason to doubt the truth or accuracy of the value declared he may ask the importer to furnish further information including documents or other evidence and if, after receiving such further information or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the value of such imported goods cannot be determined under Rule 4 of the Customs Valuation Rules. In the present matter, the Revenue has no contemporaneous imports of the impugned goods to doubt the reasonableness of the value declared by the respondent. The Revenue has relied upon only the Floor Price Circular of the Mumbai Customs dated 13-12-1999 whereas the Bill of Entry was filed in May 2000. This Circular cannot be regarded as contemporaneous document. We, therefore, hold that Revenue has not brought on record any material to reject the transaction value. We, therefore, find no reason to interfere with the impugned order. Accordingly, the appeal filed by the Revenue is rejected.