Sundek India Ltd. Vs. Cc

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-05-2005

Reported in : (2005)(192)ELT900TriDel

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

Appellant : Sundek India Ltd.

Respondent : Cc

Judgement :
1. The Appellants is a manufacturer of Decorative Laminated sheets.

Phenol is a raw material for such manufacture. Under Bill of Entry No.5890 dated 17.7.2001 the Appellants imported a consignment of 210 M.T.of Phenol. They produced invoice for the goods at U.S. $ 525 per M.T.The Customs authorities assessed the consignment at a higher value of U.S. $ 578 per M.T. This value was noticed by them in regard to import under Bill of Entry No. 3065 dated 6.6.01. The impugned Order mentions that import price of the Appellants is "very low" and for that reason the consignment is required to be assessed at the value of comparable goods. The present appeal challenges that order.

2. The contention of the Appellants is that their purchase price is commercial and it is required to be accepted for the purpose of assessment, inasmuch as under the Customs Law, transaction value constitutes assessable value. During the hearing of the case, the Counsel emphasized that there is no material which casts any

doubt about the commercial nature of the transaction. There is also no relation between the Appellant importer and the foreign supplier so as to make the transaction value invalid. It is also being pointed out that the Appellants' import was a higher quantity 210 M.T. compared to 190 M.T. under Bill of Entry No. 0306 dated 6.6.2001. The learned Counsel submitted that it is well settled (Eisher tractor case) that assessable value is the transaction value in regard to the goods under assessment and the same can be rejected only for reasons mentioned in the Customs Valuation Rules.

3. As against the submissions of the Appellants the learned DR pointed out that both the imports were made at the same time. In fact the Bill of Lading is for the same day. The quantity difference does not explain the reason for difference in price. He, therefore, justified the adoption of identical goods for the purpose of assessment.

4. The law on the subject is well settled. The price relevant for assessment is the price of the consignment under assessment and the same can be rejected only for reasons specified in the Valuation Rules themselves. In the present case, the order does not reveal any specific reason for the rejection of the assessable value. Except the vague statement that the value is "very low", there is no basis for discarding the transaction between the importer and his supplier. In fact the circumstances only indicate that the transaction is fully commercial. Appellant is a regular importer of the material for the purpose of domestic manufacture. There is also a difference between the quantities under import. The difference in price is also not vast, so as to lead to the presumption that the transaction is externally influenced. In these facts and circumstances, the impugned Order is not sustainable. It is set aside and appeal is allowed with consequential relief, if any, to the appellant.