Commissioner of Customs (import) Vs. Mehta H.F. Plastic Pvt. Ltd.

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SooperKanoon Citation : sooperkanoon.com/40127

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Aug-31-2005

Judge : K Kumar, S T C.

Appellant : Commissioner of Customs (import)

Respondent : Mehta H.F. Plastic Pvt. Ltd.

Judgement :

1. Heard both sides. The original authority has taken US $ 15,000, paid by the respondents to their foreign collaborators, into account and has apportioned the same over the imports made during the impugned period hiking the value by 4.1%.

2. The lower appellate authority has held that the payment of Technical know-how fees has no nexus with the impugned goods nor payment of the same was a pre-condition of sale. Accordingly, he has set aside the Order-in Original giving rise to this appeal filed by the Revenue.

3. Revenue has not filed a copy of the agreement between respondents and the foreign collaborators. However, from the appeal petition, it is seen that the technical know-how was related to supply of Dimensional Drawings etc. apart from helping the appellants to set up and commission necessary machines and equipments for commercial production.

It is not the case of the Department that the respondents have imported any machinery from the collaborators or that they have paid the technical know-how fee for such machines. On the other hand, it is stated that the respondents have imported polypropylene sheets/ components cut to shape and size for making office stationery products like file folders, ring binders etc. It cannot be concluded from the details furnished that the technical know-how fee is in any way related to import of such materials or that payment of such fees is a condition of sale. On the other hand, the fee appears to be related to assistance in procuring machines and for starting the commercial production of office stationery etc. out of imported raw materials. As such, the contention of the Department that the technical know-how fee should be proportionately added to the declared value of polypropylene sheets/components is without any basis.