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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Jul-24-1996

Reported in : (1998)(102)ELT181TriDel

Appellant : Cinnetekk

Respondent : Collector of Customs

Judgement :

1. The appeal is directed against the order-in-appeal passed by the Collector of Customs (Appeals), Madras insofar as it relates to the upholding of the order-in-original passed by the Assistant Collector of Customs on the question of valuation of the goods imported by them. The import in question was of 100 pieces of reflectors 14" for Cine Projectors. The declared invoice value as per the invoice produced by them was Singapore $ 3000 corresponding to Rs. 18,873/-. The Assistant Collector enhanced the value to 4000 Japanese Yen per piece on the basis of certain invoices covering import of such goods which had been noticed by the Customs House. That part of the order having been uphold by the Collector (Appeals), the appellants have filed the present appeal before us.

2. Shri K. Kumar, Advocate appearing on behalf of the appellants submits that the compared import which had been relied upon by the Customs House for enhancing the assessable value had been made more than year before their import and accordingly it cannot be said to be contemporaneous. They had imported the goods from Singapore and declared the country of origin as Singapore whereas the compared import related to imports from Japan of goods of

Japanese origin. In reply, Shri T.R. Malik, learned Senior Departmental Representative stated that the brand name of the goods in question clearly shows that they were of Japanese origin and the contention that the goods were of Singapore origin is not factually correct. The compared invoice is of the manufacturer of YKK brand Reflectors and constitutes reliable evidence regarding the correct value of the goods.

3. We have taken note of the rival submissions. It was also indicated by both sides that a similar matter relating to an appeal filed by M/s.

Haseen Movies has been recently heard which related to the import of Projector Lenses from Singapore, the assessable value of which had been enhanced by the Customs House with reference to imports of similar goods from Japan. We find that, as pointed out by the representatives of both the sides, such an appeal had in fact come up for hearing on 9-7-1996 and disposed of by Final Order No. 2263/96-A. In the said order it was noted that the Department's contention that the declaration in the import document about the country of origin being not correct had not been put across to the appellants as there was no challenge in the show cause notice. Accordingly that was never dealt in the impugned order of that case. The Bench observed that though the brand name was the same, the countries of origin were different and that the brand name being the same does not necessarily lead to the inference that the manufacturer was the same. In the present case also, it is the stand of the learned counsel of the appellants that merely because the goods in question bear YKK brand it cannot asserted that they were of Japanese origin. Coupled with this is the difference in time which was also a factor present in the earlier case. In line with the approach taken in the earlier order dated 9-7-1996 in the case of Haseen Movies, we are of the view that the enhancement of value of the subject goods on the basis of imports effected from Japan was not justified. We accordingly set aside the impugned order and allow the appeal.