CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH : AHMEDABAD

REGIONAL BENCH - COURT NO. 3

Customs Appeal No. 10686 of 2019-DB

[Arising out of Order-in-Original/Appeal No- MUN-CUSTM-000-APP-288-293-18-19 dated–21/01/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-Ahmedabad]

Siddhi Vinayak Importers .... **Appellant**

Booth No 91&92, Huda Complex
ROHTAK
HARYANA

VERSUS

C.C.- Mundra .... **Respondent**

Office of the Principle Commissionerate of Customs, Port User Buld.
Custom House Mundra, Mundra
Kutch
Gujarat
370421

WITH

(1) Customs Appeal No. 10688 of 2019 (Siddhi Vinayak Importers)
(2) Customs Appeal No. 10690 of 2019(Siddhi Vinayak Importers)
(3) Customs Appeal No. 10691 of 2019 (Siddhi Vinayak Importers)
(4) Customs Appeal No. 10692 of 2019 (Siddhi Vinayak Importers)
(5) Customs Appeal No. 10695 of 2019 (Ganpat Rai Shri Ram & Co.)
(6) Customs Appeal No. 10696 of 2019 (Ganpat Rai Shri Ram & Co.)
(7) Customs Appeal No. 10698 of 2019 (Ganpat Rai Shri Ram & Co.)
(8) Customs Appeal No. 10699 of 2019 (Ganpat Rai Shri Ram & Co.)

[Arising out of Order-in- Appeal Nos- MUN-CUSTM-000-APP-288-293-18-19 and MUN-CUSTM-000-APP-284-287-18-19dated–21/01/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-Ahmedabad]

APPEARANCE :

Shri S. Sharma, Advocate for the Appellant
Shri Sanjiv Kinker, Authorised Reprensentative for the Respondent

CORAM: HON'BLE MR. RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE MR. RAJU, MEMBER (TECHNICAL)

FINAL ORDER NO. A/12359-12367/2019

DATE OF HEARING/ DECISION : 10.12.2019

RAMESH NAIR

The issue involved in the present appeals is the enhancement of the value on the basis of contemporaneous import.

2. Shri S. Sharma, Learned Counsel appearing on behalf of the appellant submits that the lower authorities though relied upon the data of contemporaneous

import but in support of the said price no material evidence was provided to the appellants for defending their case.

3. Shri S. Kinker, Learned Supdt. (AR) appearing on behalf of the Revenue reiterated the findings of the impugned order. He also takes the support of the Tribunal order in the case of Chaudhary International vs. Commissioner of Customs 1999 (109) ELT 371 (Tri- Mum). He submits that the appellants have had accepted the price at the time of the assessment. Therefore, the assessment order is consented order against which appeal not be maintainable.

4. We have heard both sides and perused the records. We find that that the Revenue has enhanced the value on the basis of contemporaneous import. However, in support of contemporaneous data, no evidence was provided to the appellant at any point of time. Therefore, there is a violation of principles of natural justice. As regard the submission made by Learned Authorised Representative that against a consented order, appeals are not maintainable. We find that except one in each appellant's case, in all the cases, show cause notices were issued. Matter was first taken up to the High Court and as per the High Court direction, the Show Cause notice was issued. Therefore, the submission of the learned AR is not sustainable. In the above circumstances, we are of the view that the data of contemporaneous import applied to enhancements of the value, must be provided to the appellant. Accordingly, we set aside the impugned order, and remand the matters to the Adjudicating Authority for passing the fresh decision after providing all the material evidence in support of enhancement of the value. All the issues are kept open.

(Dictated and pronounced in the open court)

(Ramesh Nair)
Member (Judicial)

(Raju)
Member (Technical)

Diksha