Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench at Ahmedabad

REGIONAL BENCH-COURT NO. 3

CUSTOMS Appeal No. 11370 of 2016 - DB

(Arising out of OIA-MUN-CUSTM-000-APP-408-409-15-16 dated 31/03/2016 passed by Commissioner of CUSTOMS-MUNDRA)

Aeron Composite Pvt Ltd **........Appellant**
Block No. 496/P, Shed A,
Sarkhej Bawla Highway, Changodar,
AHMEDABAD, GUJARAT

VERSUS

C.C.-Mundra **......Respondent**
Office of the Principal Commissionerate of Customs,
Port User Buld. Custom House Mundra, Mundra
Kutch, Gujarat- 370421

With

CUSTOMS Appeal No. 11371 of 2016 - DB

(Arising out of OIA-MUN-CUSTM-000-APP-408-409-15-16 dated 31/03/2016 passed by Commissioner of CUSTOMS-MUNDRA)

Aeron Composite Pvt Ltd **........Appellant**
Block No. 496/P, Shed A,
Sarkhej Bawla Highway, Changodar,
AHMEDABAD, GUJARAT

VERSUS

C.C.-Mundra **......Respondent**
Office of the Principal Commissionerate of Customs,
Port User Buld. Custom House Mundra, Mundra
Kutch, Gujarat- 370421

APPEARANCE:
Shri Vikas Mehta, Consultant for the Appellant
Shri Rajesh K Agarwal, Superintendent (AR) for the Respondent

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

Final Order No. 12740-12741/2023

DATE OF HEARING: 27.10.2023
DATE OF DECISION: 11.12.2023

RAMESH NAIR

The brief facts of the case are that the appellant imported 'E-glass direct roving' vide the two bills of entry and self-assessed the bills of entry by declaring value as per invoices. The department found that the value declared was not correct in terms of Section 14 of the Customs Act, 1964 and therefore re-assessed the said bills of entry were by enhancing the value. The appellant paid duty on the enhanced value along with payment of antidumping duty and cleared the goods.

1.1 Being aggrieved by the assessment of the bills of entry, the appellant filed appeal before the Commissioner (Appeals). The learned commissioner (Appeals) rejected the appeal on the ground that the appellant have accepted the enhancement of the value, therefore they cannot file appeal as they were not aggrieved person. Therefore, the present appeals are filed by the appellant.

2. Shri Vikas Mehta Learned Consultant, appearing on behalf of the appellant at the out set submits that there was no acceptance letter given by the appellant for enhancement of the value by the department. Therefore, the entire basis of the learned commissioner (Appeals)'s order is only on presumption and assumption. He submits that no speaking order was passed by the adjudicating Authority therefore, the enhancement of the value was incorrect and illegal.

3. Shri Rajesh K Agrawal, Learned Superintended (AR) appearing on behalf of the revenue reiterates the finding of the impugned order.

4. On careful consideration of the submission made by both the sides and perusal of record, we find that though the appellant have paid the duty on the value enhanced by the department, but no letter of acceptance was given to the department by the appellant. Therefore, merely by making the payment of duty on the value as enhanced by the department itself cannot be a ground that the appellant have accepted the enhancement of the value. The assessed bill of entry is also an order of assessment and the assessee has liberty to challenge such assessment, which is possible only by way filing the appeal before the commissioner (Appeals).

4.1 In the present case, we are of the view that the appellant have not accepted the enhancement of the value. However, since the assessing authority has not passed a speaking order, the matter needs to be remanded to the Assessing officer for passing a speaking order by following the principles of natural justice.

5. Accordingly, the impugned order is set aside. Appeals are allowed by way of remand to the Adjudicating /Assessing Authority.

(Pronounced in the open court on 11.12.2023)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Raksha