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

REGIONAL BENCH – COURT NO. 03

Customs Appeal No. 10760 of 2021

[Arising out of OIA-AHM-CUSTM-000-APP-408-412-20-21 dated 19/11/2020 passed by Commissioner of CUSTOMS-AHMEDABAD]

MEGHMANI INDUSTRIES LTD **.....Appellant**
Plot No. 27, Phase I, GIDC Industrial Estate,
Vatva, Ahmedabad,
Gujarat

VERSUS

C.C.-AHMEDABAD **.....Respondent**
Custom House,
Near All India Radio, Navrangpura,
Ahmedabad,
Gujarat

WITH

Customs Appeal No. 10761 of 2021

[Arising out of OIA-AHM-CUSTM-000-APP-408-412-20-21 dated 19/11/2020 passed by Commissioner of CUSTOMS-AHMEDABAD]

MEGHMANI INDUSTRIES LTD **.....Appellant**
Plot No. 27, Phase I, GIDC Industrial Estate,
Vatva, Ahmedabad,
Gujarat

VERSUS

C.C.-AHMEDABAD **.....Respondent**
Custom House,
Near All India Radio, Navrangpura,
Ahmedabad,
Gujarat

AND

Customs Appeal No. 10771 of 2021

[Arising out of OIA-AHM-CUSTM-000-APP-408-412-20-21 dated 19/11/2020 passed by Commissioner of CUSTOMS-AHMEDABAD]

MEGHMANI INDUSTRIES LTD **.....Appellant**
Plot No. 27, Phase I, GIDC Industrial Estate,
Vatva, Ahmedabad,
Gujarat

VERSUS

C.C.-AHMEDABAD **.....Respondent**
Custom House,
Near All India Radio, Navrangpura,
Ahmedabad,
Gujarat

APPEARANCE:

Shri S. Bissa, Advocate for the Appellant
Shri Himanshu P. Shrimali, Superintendent for the Respondent

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

FINAL ORDER NO.A/10121-10123 /2024

DATE OF HEARING: 04.12.2023
DATE OF DECISION: 09.01.2024

RAJU

These appeals have been filed by M/s. Meghmani Industries Ltd. against rejection of the value declared for the purpose of the import.

2. The appellant filed bill of entry for import of Cyanuric Chloride from China declaring unit price of USD 1.55 per kg. The assessing officer found that, the declared value was less as compare to regular contemporary imports of same products. The value was revised by the assessing officer to USD 1.9 per kg. The original adjudicating authority did not grant any relief to the appellant. The appellant filed an appeal before the Commissioner (Appeal) who also rejected their appeals. Aggrieved by the said order the appellant are before this tribunal. The Learned Counsel for the appellant pointed out that appellant had placed a bulk order of 2000 MT which were to be received in a staggered manner. He argued that the appellant got a better price because of huge quantity ordered. The Learned Counsel argued that since the order placed by the appellant to the supplier was a bulk order of 2000 MT, they got a price, which was more competitive than the price which were offered to all buyers who were buying in smaller quantities. The Learned Counsel argued that the NIDB data which is being compared to the appellant import is for import of much smaller quantities as compared to the price negotiated by the appeal 2000 MT.

3. Learned AR relied on the impugned order.

4. We are considered rival submission, we find that the original adjudicating authority while rejecting the declared value has considered the following data for the purpose of contemporaneous import.

TABLE-I

Data of Contemporary imports at ICD-Khodiyar						
BE No.	BE Date	Country of Origin	Currency	Quantity	UQC	Unit Price
4522678	16/08/2019	CHINA	USD	29000	KGS	2.175
4594852	22/08/2019	CHINA	USD	15000	KGS	2.1
4602867	22/08/2019	CHINA	USD	30000	KGS	2.13
4605834	23/08/2019	CHINA	USD	15000	KGS	2.12
4633528	26/08/2019	CHINA	USD	30000	KGS	2.02
4655263	27/08/2019	CHINA	USD	15000	KGS	2.13
4655853	27/08/2019	CHINA	USD	13000	KGS	2.13
4674529	28/08/2019	CHINA	USD	30000	KGS	2.175
4681379	28/08/2019	CHINA	USD	15000	KGS	2.15
4749263	03/09/2019	CHINA	USD	30000	KGS	2.15
4749446	03/09/2019	CHINA	USD	8362.4	KGS	2.1
4749446	03/09/2019	CHINA	USD	6637.6	KGS	2.1
4761652	04/09/2019	CHINA	USD	30000	KGS	2.02
4785806	05/09/2019	CHINA	USD	15000	KGS	2.2
4803241	07/09/2019	CHINA	USD	15000	KGS	2.1
4813493	07/09/2019	CHINA	USD	15000	KGS	2.15

TABLE-II

Port of Import	Bills of entry No.	Bill of entry date	Country of origin	Quantity	Assessable value in Rs.
INSBI6	4380213	06/08/2019	CN	30000	163.1
INSBI6	4339380	09/08/2019	CN	15000	151.37
INSBI6	4444104	10/08/2019	CN	18000	145.6
INSBI6	4465933	13/08/2019	CN	15000	155
INSBI6	4490462	14/08/2019	CN	15000	154
INSBI6	4509768	16/08/2019	CN	15000	15.0.89
INHZA1	4552563	19/08/2019	CN	108000	136.52
INHZA1	4553420	19/08/2019	CN	54000	136.52
INSBI6	4633528	26-08-2019	CN	30000	145.14
INSBI6	4655853	27-08-2019	CN	13000	153.04
INNSA1	4681118	28-08-2019	CN	11000	152.32
INNSA1	4680024	28-08-2019	CN	90000	136.52
INSBI6	4674529	28-08-2019	CN	30000	156.27

INSBI6	4761652	04-09-2019	CN	30000	145.14
INSBI6	4785806	05-09-2019	CN	15000	158.07
INNSA1	4795047	06-09-2019	CH	20000	167.44
INSBI6	4813652	07-09-2019	CN	15000	153.3
INSBI6	4813493	07-09-2019	CN	15000	159.85

From the NIDB and contemporaneous import data relied by the revenue, it is seen that the maximum import is of 108 MT vide bill of entry no. 4552563. In the said case the import has happened at Rs. 136.52 per kg. In the same table. It is also seen that, for a quantity of 15 tons imported roughly at the same time, the price assessed was Rs. 159.89 per kg. From the above, it is seen that for a small variation for import quantity from 20 tons to 108 tones, there is a price variation from Rs. 150.89 per kg. to Rs. 136.52 per kg. In the instance case, the price negotiated is for 2000 MT does not appear to be out of place. The appellant has submitted data which indicates out of 2000 MT, they had imported 1128 MT during 15.07.2019 to 03.01.2020. Moreover, it is seen that no evidence other than NIDB data has been cited in the proceedings by the lower authorities. In these circumstances, we hold that the quantity imported by the appellant is significantly different from the quantity listed in NIDB data relied by the revenue and therefore, the two cannot be compared in this circumstances.

5. We do not find any merit in the orders the said order is set aside and the appeal is allowed.

(Pronounced in the open court on 09.01.2024)

(Ramesh Nair)
Member (Judicial)

(Raju)
Member (Technical)

Dharmi