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

REGIONAL BENCH-COURT NO. 3

CUSTOMS Appeal No. 11465 of 2017 - DB

(Arising out of OIA-MUN-CUSTM-000-APP-027-17-18 dated 02/05/2017 passed by Commissioner of CUSTOMS-AHMEDABAD)

Sarla Export P Ltd ....**Appellant**
N H 8, Amberi,
Udaipur
Rajasthan

VERSUS

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

APPEARANCE:
Shri Manish Jain, Advocate for the Appellant
Shri A R Kanani, Superintendent (AR) for the Respondent

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

Final Order No.10491/2024

DATE OF HEARING: 25.10.2023
DATE OF DECISION: 26.02.2024

RAMESH NAIR

Brief facts of the case are that the Appellant M/s Sarla Exports Pvt. Ltd is engaged in the activity of manufacture of marble slabs and tiles for the purpose of which they import rough marble blocks falling under Tariff heading 2515. The present appeal arises out of Order – in – Appeal No. MUM/CUSTM/000/APP/027/17 – 18 dated 02.05.2017 wherein the learned commissioner has upheld the findings of the adjudicating authority wherein they have rejected the value declared by the importer under provisions of Rule 12 of Custom Valuation Rules, 2007 and redetermined the same under Rule 5 of the said Rules along with appropriate customs duty and interest, and ordering confiscation of the said goods under section 111(d) of the Customs Act, 1962.

2. Shri Manish Jain, Learned Advocate appearing on behalf of the Appellant submits that the Department has enhanced the value of the imported goods on an adhoc basis without considering essential characteristics of the goods. He further submits that the Department has redetermined the value of the impugned goods without fulfilling any conditions as regards Rules 3, 4, 5, 11 of the Customs Valuation (Determination of Price of Imported Goods) Rules, 2007 whilst rejecting the transaction value of the goods imported by the Appellant; that the transaction value of the said goods should be accepted in terms of Section 14(1) of the Customs Act 1962 read with Rule 3 of the Customs Valuation Rules, 2007. He further submits that the Department has only relied on NIDB data and not provided any reason towards officer having doubt towards accuracy of the transaction value when invoking Rule 12 of the said rules.

3. Shri A R Kanani, Learned Superintendent (AR) appearing on behalf of the Revenue reiterates the findings of the impugned order.

4. We have carefully considered the submissions made by both the sides and perused the records. We find that the main issue to be decided in the present case is with regards to the redetermination of the value of the goods in question. In the present case the department has enhanced the value of the goods at values that were higher than that declared by the Appellant in the Bills of Entry without providing any cogent reasons for the same. It is observed that the Custom Valuation Rules outline a detailed chronological methodology that should be adopted in order to reject and re – determine assessable value whereas the Revenue has enhanced the value of the said goods relying only on NIDB data. Therefore, in order to

determine appropriate levy of customs duty and imposition of fine it is imperative that cogent reasons be provided for rejection of Transaction value and furnish tests in support of re-assessment of the said values.

5. In view of the above, we find that the value of the goods need to be re-determined by way of proper assessment for which the matter is remanded for re-consideration to the adjudicating authority. We make it clear that no findings have been recorded on the merits of the case and are leaving the issue open. Appeal is allowed by way of remand to the adjudicating authority.

(Pronounced in the open court on 26.02.2024)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Raksha