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

REGIONAL BENCH- COURT NO.1

Customs Appeal No. 10075 of 2024
(Arising out of OIO-AHM-CUSTM-000-COM-033-22-23 dated 27.02.2023 passed by Commissioner of Customs- Ahmedabad)

Shri Lilaram Arjandas Asudani **...Appellant**
13, Rajnigandha Bungalows, Near Sant Kabir School
Thaltej, Ahmedabad-380 054

VERSUS

C.C. Ahmedabad **...Respondent**
Office of Pr. Commr. of Customs, 1st Floor
Custom House, Opp. Old High Court, Navrangpura
Ahmedabad-Gujarat-380009

WITH

Customs Appeal No. 10076 of 2024
(Arising out of OIO-AHM-CUSTM-000-COM-033-22-23 dated 27.02.2023 passed by Commissioner of Customs- Ahmedabad)

Shri Lalit Lilaram Asudani **...Appellant**
Proprietor of Ms. Sunny International
13, Rajnigandha Bungalows, Near Sant Kabir School
Thaltej, Ahmedabad-380 054

VERSUS

C.C. Ahmedabad **...Respondent**
Office of Pr. Commr. of Customs, 1st Floor
Custom House, Opp. Old High Court, Navrangpura
Ahmedabad-Gujarat-380009

APPEARANCE:
Shri Vikas Mehta, Consultant appeared for the Appellant
Shri P. Tripathi, Authorised Representative appeared for the Respondent

CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)
HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER(TECHNICAL)

FINAL ORDER NO. 10519-10520 /2025

DATE OF HEARING: 01.07.2025
DATE OF DECISION:01.07.2025

SOMESH ARORA:

In the instant case, amongst various grievances which the appellant has the main one is about valuation. The learned adjudicating authority while deciding the matter against the two appellants has opted for the value of phones which were stated to be in unassembled form when imported as per the department, though declared as parts of mobile by the appellant. Department adopted the value which was of mobile phone and with consent gave some deduction on account of labour and demanded duty and imposed redemption fine and penalty accordingly. The learned consultant has the grievance that the value adopted is not of contemporaneous import as period involved is from January 2002 to November 2002 whereas value taken is not of the contemporaneous imports for similar goods but of mobile phones stated to be imported in January 2003. He therefore pleaded that as per the valuation rules, the deductive method adopted by the Commissioner was not in accordance with law and it should only be resorted after rejecting all the other valuation methods. Also, first and foremost, the learned Commissioner needed to reject the value by giving NIDB data of the similar goods i.e. Mobile Phone parts in unassembled form. There is no finding to the effect that such NIDB data was even attempted to be procured and therefore, the impugned order is not sustainable in law.

2. The Learned Authorised Representative, on the other hand, emphasizes that the value adopted was as per provisions and he seeks to rely upon decision in Vikas Spinners Commissioner of Customs-Ludhiana 2001 (128) ELT 143-Tri-Del and also various others which are part of his synopsis. Learned AR was specifically asked if any of these orders on valuation dealt with goods which were commercially known differently and were not identical goods to the goods which were relied upon by the department. He could not comment on it. In view of the foregoing, it appears to us that the value adopted should be in accordance with the Valuation Rules and the same should be of contemporaneous price of "Mobile Phone in unassembled form". The adopted value on the basis of goods which are of different form and nature and cannot be stated to be identical may not meet the requirement of the Valuation Rules. Consent of the party to such valuation is of no consequence specially when the matter is being litigated. In view of the foregoing, we are inclined to remit the matter back to the Commissioner to consider the valuation aspect in totality to arrive at the value correctly and in accordance with data of NIDB to the extent available of unassembled mobile phones. Matter shall be re-

adjudicated along with cooperation of department as well as appellant. Matter remanded.

3. Appeals allowed by remand.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

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