

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

SR NoAppeal Nos.Appellant(s)Respondent(s)Impugned Order-in-Appeal
Numbers, dated all passed by CC (Appeals), Noida1.C/70748/2016Century
Metal Recycling Pvt. Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-
0043 to 0045-16-17 dated 16.05.20162.C/70749/2016Century Metal Recycling
Pvt. Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0043 to 0045-16-
17 dated 16.05.20163.C/70750/2016Century Metal Recycling Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0043 to 0045-16-17
dated 16.05.20164.C/70930/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0242 to 0246-16-17
dated 30.06.20165.C/70931/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0219 to 0221-16-17
dated 27.06.20166.C/70933/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0265 to 0269-16-17
dated 30.06.20167.C/70934/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0340 to 0342-16-17
dated 11.07.20168.C/70936/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0320 to 0324-16-17
dated 06.07.20169.C/70937/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0202 to 0207-16-17
dated 24.06.201610.C/70938/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0350 to 0353-16-17
dated 11.07.201611.C/70939/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0215 to 0218-16-17
dated 27.06.201612.C/70940/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0213 to 0214-16-17
dated 24.06.201613.C/70941/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0237 to 0241-16-17
dated 30.06.201614.C/70942/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0226 to 0229-16-17
dated 27.06.201615.C/70943/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0193 to 0201-16-17
dated 24.06.201616.C/70944/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0398 to 0405-16-17
dated 13.07.201617.C/70945/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0358 to 0362-16-17
dated 12.07.201618.C/70946/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0384 to 0390-16-17
dated 13.07.201619.C/70948/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0290 to 0292-16-17
dated 04.07.201620.C/70949/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0293 to 0300-16-17
dated 04.07.201621.C/70951/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0281 to 0283-16-17
dated 30.06.201622.C/70952/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0363 to 0367-16-17
dated 12.07.201623.C/70956/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0354 to 0357-16-17
dated 11.07.201624.C/70957/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0347 to 0349-16-17
dated 11.07.201625.C/70960/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0391-16-17 dated
13.07.201626.C/70969/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0372 to 0375-16-17
dated 12.07.201627.C/70970/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0330 to 0336-16-17
dated 08.07.201628.C/70972/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0222 to 0225-16-17

dated 27.06.201629.C/70974/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0343 to 0346-16-17
dated 11.07.201630.C/70975/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0306 to 0312-16-17
dated 05.07.201631.C/70976/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0314 to 0319-16-17
dated 06.07.201632.C/70977/2016Sanjivani Non-Ferrous Trading Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0284 to 0287-16-17
dated 30.06.201633.C/70979/2016Century Metal Recycling Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0160 to 0161-16-17
dated 23.06.201634.C/70981/2016Century Metal Recycling Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0145 to 0150-16-17
dated 23.06.201635.C/70982/2016Century Metal Recycling Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0151to 0155-16-17
dated 23.06.201636.C/70986/2016Century Metal Recycling Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0098 to 0101-16-17
dated 23.06.201637.C/70989/2016Century Metal Recycling Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0115 to 0121-16-17
dated 23.06.201638.C/70990/2016Century Metal Recycling Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0094 to 0097-16-17
dated 23.06.201639.C/70992/2016Century Metal Recycling Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0126 to 0134-16-17
dated 23.06.201640.C/70994/2016Century Metal Recycling Pvt.
Ltd.Commissioner of Customs, NoidaNOI-CUSTM-000-APP-0162 to 0164-16-17
dated 23.06.2016

Appearance:

Ms. Stuti Saggi

for Appellant(s)

Shri Mohd Altaf (Asstt. Commr.) AR &

Shri Pawan Kumar Singh (Supdt.) AR

for Respondent(s)

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 05/01/2018

Date of Decision : 05/01/2018

FINAL ORDER NOS. 70462-70501/2018

Per: Archana Wadhwa

All the appeals are being disposed of by a common order as the issue involved in all of them is identical.

2. After hearing both sides we note that the issue relates to the assessable value of the imported Aluminium Waste and Scrap. The Revenue has rejected the declared transaction value, on the basis of a Circular issued by the Directorate General of Valuation being Circular LR No. 14/2005 dated 16.12.2005.

3. Appellant contention is that the entire case is based upon the said Circular issued by the DGOV and reference stand made to various precedent decisions of the Tribunal wherein it stand held that such Circulars have no legal validity and cannot be adopted for the purpose of enhancing the assessable value, in the absence of any cogent evidence. In fact we find that in an earlier set of appeals of M/s Sanjivani Non Ferrous Trading Pvt. Ltd. the Tribunal, vide the Final Order No. 70132-70137 dated 17.01.2017 has considered the identical issue and has held as under:-

"Having considered the rival contentions and on perusal of record, we find that the Original Authority was directed by the Hon'ble High Court to pass speaking order on the enhancement of assessable value. We find that the Original Authority in its Order-in-Original dated 25/03/2015 has passed comments on the grounds of writ petition and did not properly examine the evidence available with the department required to be examined for enhancement of assessable value. Further, we find that as held in the case laws stated above and as provided by Section 14 of Customs Act, 1962, the assessable value has to be arrived at on the basis of the price which is actually paid and in a case the price is not sole consideration or if the buyers and sellers are related persons then after establishing that the price is not sole consideration the transaction value can be rejected and taking the other evidences into consideration the assessable value can be arrived at. Such exercise has not been done in these cases on hand. Therefore, we reject the enhancement of assessable value in respect of the Bills of Entry which are involved in all the appeals being decided and we restore the assessable value as declared by the appellant in said Bills of Entry.

In result, we set aside all the impugned Orders-in-Appeal and allow all the appeals. The appellant shall be entitled for consequential relief, if any, in accordance with law."

4. Inasmuch as the issue stands decided in favour of the appellant by above referred decision of the Tribunal, we set aside the impugned orders and allow all the appeals with consequential relief to the appellant.

(Dictated and pronounced in Court)

Sd/- Sd/-

Anil G. Shakkarwar)

Member (Technical) (Archana Wadhwa)

Member (Judicial)Ankit

1

5

C/70748-70750, 70930-70931, 70933-70934,
70936-70946, 70948-70949, 70951-70952,
70956-70967, 70960, 70969-70970, 70972,
70974-70977, 70979, 70981-70982, 70986,
70989-70990, 70992, 70994/2016-CU[DB]