IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

REGIONAL BENCH : ALLAHABAD
COURT No. I
C/Stay/70362-70364/2017 in
APPEAL No. C/70731-70733/2017-CU[DB]

(Arising out of Order-in-Appeal No. NOI-CUSTOM-000-APP-786 to 790-17-18 dated 18/08/2017 passed by Commissioner, Central Goods & Service Tax (Appeals), Noida)

Principal Commissioner of Customs, Noida Customs Commissionerate

Appellant(s)

Vs.

M/s. Manvi Exim Pvt. Ltd. **Respondent(s)**

Appearance:

Shri Rajeev Ranjan (Joint Commr.) AR for Appellant(s)
Shri Abhishek Jaju for Respondent(s)

CORAM:

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

Date of Hearing : 14/12/2017
Date of Decision : 14/12/2017

FINAL ORDER NOs. 70978-70980/2018

Per: Anil Choudhary

The present appeals filed by Revenue are directed against Order-in-Appeal No. NOI-CUSTM-000-APP-786 to 790-17-18 dated 18.08.2017 passed by Commissioner Appeals), Central Goods & Service Tax, Noida.

2. Brief facts of the case are that the respondent imported 10664 pieces of Mini Booster Pump 50GPD of Chinese origin and filed Bill of entry No 7220244 dated 25.10.2016 and

declared assessable value of the same as Rs. 18,22,742.48/- and duty declared in the said Bill of entry was Rs. 4,81,718.90/-. After imported goods were subjected to 100% examination, the Original Authority on the basis of NIDB data, enhanced the assessable value to Rs. 32,67,865/-. Subsequently, on 15.12.2016 the respondent filed four Bills of entries for the goods with same description and value in respect of goods in respect of each said four Bills of entries were filed on 15.12.2016, were also enhanced by the Original Authority on the basis of enhancement of assessable value in respect of Bill of entry No. 7220244. The said enhancement of said assessable value in respect of four Bills of entries filed on 15.12.2016 and 25.10.2016 was passed through Order-in-Original dated 23.12.2016. Aggrieved by the said order respondent preferred appeal before Commissioner (Appeals). Commissioner (Appeals) disposed the said appeals through impugned Order-in-Appeal dated 28.02.2017. The learned Commissioner (Appeals) has stated that the respondent submitted that the Assessing Authority without giving any reason, chose to load the transaction value. He relied on this Tribunal's decision vide Final Order No. 70132-70137/2017-CU[DB] dated 17.01.2017 in the case of M/s Sanjivani Non Ferrous Trading Limited wherein the enhancement of assessable value was rejected observing that under Section 14 of Customs Act, 1962, the assessable value has to be arrived at on the basis of price which was actually paid and in a case where the price is not sole consideration then the transaction value can be rejected and taking other evidences into consideration the assessable value can be arrived at. The learned Commissioner (Appeals) has further held that if Revenue wants to allege undervaluation, it must make detailed inquiries, collect material evidence to support the allegations and further held that there was no evidence in the present case to establish that there was undervaluation. He, therefore, rejected the enhanced value. Aggrieved by the said order Revenue is before this Tribunal.

3. Heard the learned AR who has reiterated the grounds of appeal stating that the Assessing Officer has correctly rejected the value declared in the Bill of entries for the goods having description Mini Booster Pump 50 GPD.

4. Learned counsel for the respondent has stated that this Tribunal has held in the above stated case of M/s Sanjivani Non Ferrous Trading Limited relied upon by learned Commissioner (Appeals) for his decision, that "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 the sole consideration or if the buyers and sellers are related persons then after establishing that the price is not sole the consideration, the transaction value can be rejected and taking the other evidences into consideration the assessable value can be arrived at". He has

further submitted that such exercise has not been done in the present case by the Original Authority and, therefore, the impugned Order-in-Appeal is sustainable. He has further submitted that the Revenue's contention that enhancement of assessable value by the Assessing Officer was correct has not been supported by any evidence by Revenue.

5. Having considered the rival contentions and on perusal of record we do not find any merit in the grounds of appeal filed by Revenue. We find that the impugned Order-in-Appeal is reasonable and sustainable in law. We, therefore, uphold the impugned Order-in-Appeal dated 28.02.2017 and reject the appeal filed by Revenue. Stay applications also stand disposed of.

(Dictated and pronounced in Court)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

Sd/-
(Anil Choudhary)
Member (Judicial)

Ankit