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

APPEAL Nos. C/70015-70016/2016-CU[DB]

(Arising out of Orders-in-Appeal No. NOI/CUSTM/000/APP/77 & 79/2015-16 dated 26/08/2015 passed by Commissioner of Central Excise & Customs (Appeals), Noida)

Rathi Steel And Power Ltd. **Appellant(s)**

Vs.

Commissioner of Customs & Central Excise, Noida **Respondent(s)**

Appearance:

Shri Rajesh Chhibber (Advocate) for Appellant(s)
Shri Gyanendra Kumar Tripathi (AC) AR for Respondent(s)

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 04/07/2018
Date of Decision : 04/07/2018

FINAL ORDER NOs **71327-71328 / 2018**

Per: Anil G. Shakkarwar

Above stated two appeals are taken together for decision since the issues involved in both of them are same and the appellant is same further the nature of the goods imported are also same.

2. Brief facts of the case are that the appellant purchased Shredded Steel Scrap in terms of High Sea Agreement dated 28.01.2015 with M/s Global Interiors Ltd. Ltd. The appellant

submitted two bills of entry being Bills of Entry No. 8401537 and 8401539 dated 23.02.2015 for clearance of said goods for Home Consumption. The self assessed value in respect of Bill of Entry No. 8401537 was Rs.45,50,338.86/- whereas the same for the other Bill of Entry was Rs.47,78,428.65/-. Revenue unilaterally enhanced the assessable value in both the case and assessed the goods at enhanced value without putting the appeals on notice for enhancement of value. Aggrieved by the said enhancement of value appellant preferred appeal before learned Commissioner (Appeals). The contention of appellant before learned Commissioner (Appeals) in two appeals before the learned Commissioner (Appeals) were that without assigning any reason the value was enhanced by Revenue. The learned Commissioner (Appeals) passed two similarly worded Orders-in-Appeal which are impugned orders and held that as provided under CBEC Circular No. 91/2003-Customs dated 14.10.2003, the Assessing Officer is required to put the importer on notice for enhancement of value, however, it may not be necessary to issue speaking order in all cases where enhancement of value has been restored to with the consent of the importer. The appeals were rejected. Aggrieved by the said order appellant is before this Tribunal.

3. Heard the learned counsel for the appellant, who has submitted that they were not put on notice for enhancement

of value and also that the transaction value was not rejected nor it was established that the same was not true and correct as reflected through the document submitted before Revenue.

4. Heard the learned AR who has supported the impugned Orders-in-Appeal.

5. We have carefully gone through the record of the case and submissions made. We do not find any reason assigned either in the Original Authority or in the order passed by learned Commissioner (Appeals) for enhancement of value. We, therefore, set aside the impugned orders and allow both the appeals. By allowing both the appeals we restore the value as reflected by self assessment in both the Bills of Entry. In above manner both appeals are allowed.

(Dictated and pronounced in Court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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

Ankit