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

APPEAL No.C/51169/2015-CU[DB]

(Arising out of Order-in-Appeal No.NOI/EXCUS/000/APPL/213/2014-15 dated 25/11/2014 passed by Commissioner (Appeals), Customs & Central Excise, Noida)

M/s Raghupati Steels, **Appellant**

Vs.

Commissioner, Customs & Central Excise, Noida **Respondent**

Appearance:

Shri Mohd Faraz Anees (Adv), for Appellant
Shri Pawan Kumar Singh, Superintendant (AR), for Respondent

CORAM:

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

Date of Hearing : 17/07/2018
Date of Decision : 17/07/2018

FINAL ORDER NO.71771/2018

Per: Archana Wadhwa

As per facts on record, the appellant imported consignment of rejected/defective stock lot of Conveyor Belts on high sea sale basis under the declared unit price of US$ 420 per MT. Based upon the Charter Engineer's report the value of the goods were enhanced to US$ 450 of US$ 480. Inasmuch as the old and used conveyor belts are restricted items, and required an import license, the same were also confiscated with an option to the appellant to redeem the same on payment of redemption fine of Rs.4,65,300/-. Further, penalty of Rs.2,00,000/- was imposed upon the appellant in terms of provisions of Section 112(a) of the Customs Act.

2. The order passed by the Additional Adjudicating Authority was upheld by Commissioner (Appeals). However, he reduced the value of the used conveyor belt to US$ 465 MT and upheld the rest of the impugned order.

3. On going through the impugned order we find that the enhancement of the assessable value of the goods is solely based upon the Chartered Engineer's report. It is well settled law that the goods are liable to be assessed to duty on the transaction value and the other methods for enhancing the assessable value can be adopted only on rejection of the transaction value. The Revenue has not produced any evidences to reject the transaction value and as such we are of the view that the value fixed based on the Chartered Engineers opinion, which is in respect of the second hand old and used defective goods cannot be upheld. As such, we find no merits in the Revenue's stand as regards the valuation of the goods.

4. Learned Advocate fairly agreed that the goods being old and used require an import license and the same

being not available, the goods have rendered themselves liable to confiscation and the appellant is liable to penalty. By referring to various precedent decisions he prays for reducing the redemption find and penalty.

5. We note that in an identical case the Tribunal has reduced the redemption fine to 10% of the value of the goods and penalty to 5% of the value. By following the same we reduce the redemption fine and penalty in the present case also to 10% and 5% of the value of the goods respectively.

6. The appeal is disposed of in above terms.

(Pronounced & Dictated in Court)

Sd/-	Sd/-
(Anil G. Shakkarwar)	**(Archana Wadhwa)**
Member (Technical)	**Member (Judicial)**

Nihal