# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
## ALLAHABAD

REGIONAL BENCH – COURT NO.I

**Customs Appeal No.56856 of 2013**

(Arising out of Order-in-Appeal No.343/CUS/APPL/NOIDA/2012 dated 29/10/2012 passed by Commissioner (Appeals), Customs & Central Excise, Noida)

**M/s Helicon Trading House Pvt. Ltd.** **.....Appellant**

(H-9, Associated Apartment, 83, Indraprastha Extn.,

Patparganj, New Delhi-110092)

*VERSUS*

**Commissioner, Customs,**

**Central Excise & Service Tax, Noida** **.....Respondent**

(C-56/42, Sector-62, Noida, U.P.)

**APPEARANCE:**
Shri Prem Ranjan Kumar, Advocate for Appellant
Shri Santosh Kumar Agarwal, Authorized Representative for Respondent

**CORAM :**
**Hon'ble Mrs. ARCHANA WADHWA, MEMBER (JUDICIAL)**
**Hon'ble Mr. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)**

**FINAL ORDER NO.70036 / 2020**

DATE OF HEARING: 29 November, 2019
DATE OF PRONOUNCEMENT: 06 January, 2020

**PER: ANIL G. SHAKKARWAR**

Brief facts of the case are that the appellants have imported glassware which actually were whisky glasses. They imported 11,550 boxes of said goods and each box was containing 6 pieces. The said goods were imported from China. The goods were covered by Invoice No.19028445 dated 20 December, 2011 and the invoice value was USD 28,784.40. The import took place at Customs formation at Dadri. The appellant filed Bill of Entry No.6079508 dated 23 February, 2012 and declared the goods as glassware and declared the assessable value of the whole consignment to be Rs.15,07,704.65/-. They also declared that the price of each box was USD 2.49 (FOB). The Customs Authorities ordered for 100% examination. After examination they did not find any NIDB data of similar goods imported. Further, after noting that the MRP printed on the said boxes was Rs.505/-, the Original Authority after giving opportunity of being heard rejected the declared value of USD 2.49 (FOB), under Rule 7 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 adopted deductive method and arrived at assessable value of Rs.141.22/- for each box of 6 glasses and accordingly re-determined assessable value under said Rule 7 through order dated 19 May, 2012. Aggrieved by the said order appellant preferred appeal before Commissioner (Appeals). Learned Commissioner (Appeals) did not interfere in the order passed by Original Authority through the impugned Order-in-Appeal. Therefore, appellant is before this Tribunal.

2. Heard Shri Prem Ranjan Kumar, learned advocate on behalf of the appellant. The learned counsel for the appellant has submitted that there was no mis-declaration in the value declared by the appellant. The value was as reflected in the concerning invoice. He has submitted that Revenue Authorities were under an obligation to accept transaction value. He has submitted that the manner of assessment opted by Revenue was arbitrary and illegal and was in violation of Section 14 of Customs Act, 1962 read with Rule 3 of Customs Valuation (Determination of Price of Imported Goods) Rules, 2007. He had further submitted that as per Rule 3 of said Rules transaction value has to be accepted by Revenue. He has further relied upon decisions of this Tribunal in the case of KISCO Casting Ltd. V/s Commissioner of Customs, Ludhiana reported at 2018 (364) E.L.T. 1084 (Tri.-Chan.) and submitted that the Third Member has agreed with Member (Judicial) in holding that the transaction value has not been rejected by Revenue and therefore, declared value was as per Section 14 of Customs Act, 1962.

3. Heard Shri Santosh Kumar Agarwal, learned Authorized Representative for Revenue. He has submitted that the impugned order is sustainable.

4. Having considered the submissions from both the sides and on perusal of record, we note that the Original Authority has not given any reason for rejecting the declared value. There has been no investigation to hold that there was any understanding between the overseas supplier and the appellant to pay any amount in addition to the invoice price. There is no investigation to establish that any additional amount has been paid by the appellant. Therefore, under the circumstances it was mandatory for Revenue to accept the transaction value. We note that in the case of KISCO CASTING Ltd. it was held that since Revenue has not rejected the transaction value, the value declared was as per Section 14 of the Customs Act, 1962. Following the said decision of this Tribunal, we hold that the value declared by the appellant through the said bill of entry dated 23 February, 2012 was the correct value. We, therefore, set aside the impugned order and restore the value declared by the appellant in the said bill of entry dated 23 February, 2012. In above terms appeal is allowed. The appellant is entitled for consequential relief as per law.

(Order Pronounced in the open Court on 06 January, 2020)

Sd/-
**(Archana Wadhwa)**
**Member (Judicial)**

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

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