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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 06/11/2017

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. C/A/71301/2017-CU[DB] dated 29/08/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 129-A(4) of the Customs Act, 1962.

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	C/70346/2017	COMMISSIONER OF CUSTOMS CENTRAL EXCISE & SERVICE TAX-Noida Ii OFFICE OF THE COMMISSIONER CENTRAL EXCISE HOTEL FORMULE 1, WEGMANS BUSINESS PARK, KP-III, GREATER NOIDA GOTAM BUDH NAGAR U.P.
		Name and Address of Respondent
2		Manavi Exim Pvt Ltd 2944, Gali No. 3, Shyam Chamber, 3rd Floor, Chunamandi, Paharganj., NEW DELHI ,DELHI

Copy To
3Advocate(s) / Consultant(s):

Abhishek Jaju,Advocate
472, Delhi Apartments, Plot No - 15-C, Sector-22, Dwarka
NEW DELHI,
110077

4 Bar Association, CESTAT, Allahabad

5 Director Publications, Customs, Excise, I.P. Estate, Delhi

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

12 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

13 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

14 C.D.R. 15 Office Copy 16 Second Folder Copy 17 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

REGIONAL BENCH : ALLAHABAD

COURT No. I

APPEAL No. C/70346/2017-CU[DB]

(Arising out of Order-in-Appeal No. NOI-CUSTM-000-APP-1722 to 1726-16-17 dated 28/02/2017 passed by Commissioner of Central Excise & Customs (Appeals), Appeal –II, Noida)

Pr. Commissioner of Customs, Noida Customs Commissionerate, Greater Noida **Appellant**

Vs.

M/s Manavi Exim Pvt. Ltd. **Respondent**

Appearance:

Shri Pawan Kumar Singh (Supdt.) AR for Appellant
Shri Abhishek Jaju (Advocate) for Respondent

CORAM:

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

Date of Hearing : 29/08/2017
Date of Decision : 29/08/2017

FINAL ORDER NO: 71391/2017..........

Per: Anil G. Shakkarwar

The present appeal filed by Revenue is directed against Order-in-Appeal No. NOI-CUSTM-000-APP-1722 to 1726-16-17 dated 28.02.2017 passed by Commissioner (Appeals), Customs, Central Excise Appeal-II, 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 reason chose to load the assessable value and 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 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 sole consideration or ~~case~~ 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". 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.

(Dictated and pronounced in Court)

-Sd/-
(ANIL CHOUDHARY)
Member (JUDICIAL)

-Sd/-
(ANIL G. SHAKKARWAR)
Member (TECHNICAL)

Ankit

प्रमाणित प्रति/Certified True Copy
27/11/17
सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण(C.E.S.T.A.T.)
38, एम.जी.मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001