CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20557 of 2017

(Arising out of Order-in-Appeal No. 1125/2015 dated 28.12.2015 passed by the Commissioner of Customs (Appeals), Bangalore.)

The Principal Commissioner of Customs
C.R. Building, Queens Road,
P.B. No.5400,
Bangalore – 560001.

Appellant(s)

VERSUS

M/s. Raymond Weil India Distribution Private Limited,
No.501/1, II Floor, 5th Cross, CBI Road,
HMT Layout, Ganganagar,
RT Nagar, Bangalore – 560032.

Respondent(s)

APPEARANCE:

Mr. Vikalp Jain, Superintendent (AR) for the Appellant

None for the Respondent

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20626 /2026

DATE OF HEARING: 27.04.2026
DATE OF DECISION: 27.04.2026

PER : DR. D.M. MISRA

The appeal has been listed on 05.07.2024 and thereafter adjourned to 12.08.2024. On the said date of hearing, the Bench directed the Departmental Representative to produce the necessary communication letter indicating actual date of communication/ receipt of order in the Head Quarters. Thereafter, the matter has been adjourned from time to time for more than 14 times. On all these occasions, the respondent though issued with hearing notices, never responded by appearing before the Tribunal or sought adjournment of the hearing. Therefore, the matter has been taken up for final disposal after hearing the learned AR for the Revenue.

2. This appeal is filed by the Revenue against Order-in-Appeal No.1125/2015 dated 28.12.2015 passed by the Commissioner of Customs (Appeals), Bangaluru.

3. Briefly stated the facts of the case are that the respondent are importers of watches from their overseas holding company M/s. Raymond Weil GENEVE and both companies are related in terms of Rule 2(2)(iv) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The Special Valuation Branch (SVB), Bangalore analysed the declarations made by the respondent particularly the Distribution Agreement entered into by the importer / respondent that their foreign holding company which offered them a discount of 60 to 65% on the Retail Selling Price. Considering the overall circumstances accepted the declared invoice price as the transaction value holding that the pricing pattern adopted by the respondent has not influenced by their relationship. The said order was not accepted by the Department and after review, appeal was filed before the Commissioner(Appeals). The learned Commissioner(Appeals) without deciding the issue on merit, dismissed the Revenue’s appeal on the ground of limitation. Aggrieved by the said order, the Revenue is in appeal.

4. At the outset, the learned AR for the Revenue has submitted that the Order-in-Original No. 698/2012 dated 29.11.2012 has been received by the office of the Commissioner of Customs (Appeals), HQ, Bangalore on 28.08.2013. However, the learned Commissioner(Appeals), instead of accepting the date of receipt as 28.08.2013, observed that no evidence has

been placed on record indicating the date of delivery of the order as 28.08.20213 i.e. the date of receipt of the order at the Head Quarter's Review Section; hence the appeal is held to be barred by limitation in terms of Section 129D(2) of the Customs Act, 1962. Learned AR for the Revenue has further submitted that the learned Commissioner(Appels) has erred only referring to entry Sl.No.13365 date 05.12.2012 of the Office Copy Register of Air Cargo Complex and arrived at the conclusion that the order was received on 05.12.2012 instead of referring to the Tapal Register where the receiving officer records the receipt of the order. In support, he has placed the Tapal Register maintained at HQ level wherein nowhere the receipt of the said order was recorded. He has submitted that the order was received only on 28.08.20213; therefore, the appeal was filed within time before the learned Commissioner(Appeals). Further, on the direction of the Tribunal, the learned AR for the Revenue has placed on the record the extracts of the Review file maintained in the office of the Commissioner of Customs, Bangalore.

5. We have carefully gone through the records, particularly the Note Sheets of the Review File maintained at the officer of the Commissioner of Customs, Bangalore. In the said file, on the Note Sheet, since the date of communication of the order has been clearly recorded as 28.08.2013 and it is mentioned the due date of filing the review as 27.11.2013, discussing the merit in detail of the case and reason for review of the order. After necessary review at various level, appeal has been filed before the learned Commissioner(Appeals) within three months from the date of communication of the order. Since the receipt of the order at the HQ level has been recorded as 28.08.2013 in the ordinary course of routine official business, there is no reason to doubt the receipt of the order as 28.08.2013. Consequently, accepting the date of communication of the order as 28.08.2013,

then the appeal is not barred by limitation as laid down under Section 129D(2) of the Customs Act, 1962. Consequently, the impugned order is set aside and since the learned Commissioner(Appeals) has not decided the issue on merit, the matter is remanded to the learned Commissioner(Appeals) to address the issue on merit after giving an opportunity of hearing to the respondent. All issues are kept open. Revenue's appeal is allowed by way of remand.

(Operative part of this Order was pronounced in Open Court on conclusion of the hearing.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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