CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20863 of 2016

(Arising out of Order-in-Appeal No.COC-CUSTM-000-APP-393/2015-16 dated 14.03.2016 passed by the Commissioner of Customs, Cochin.)

M/s. KMK Trading Company
New No.236/4 (Old No.584/1),
Randathani,
Malappuram – 676 510.

Appellant(s)

VERSUS

The Commissioner of Customs
Customs House,
Willingdon Island,
Cochin – 682 009.

Respondent(s)

APPEARANCE:

Shri Hari Radhakrishnan, Advocate for the Appellant.

Shri M. Sreekanth, Assistant Commissioner, Authorised Representative for the Respondent.

CORAM:

HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20708 / 2026

DATE OF HEARING: 07.05.2026
DATE OF DECISION: 07.05.2026

PER : R. BHAGYA DEVI

Briefly the facts are that the appellant M/s. KMK Trading Company filed Bill of Entry No.2708196 dated 15.07.2013 for clearance of 5000 pieces of High Pressure Laminate Sheets (HPL) of thickness 1.8 mm and size 1220 mm x 2440 mm declaring the value as USD 12,000(C&F). The Revenue rejected the above value and redetermined the value at USD 43,500(C&F) under Rule 3(1) of Customs Valuation Rules, 2007 which was upheld by the Commissioner (Appeals) in the impugned order. Aggrieved by this, the appellant is in appeal before us.

2. The Learned Counsel appearing on behalf of the appellant submits that the authorities concerned have not given any findings on the submissions made by them before the original authority and the Commissioner (Appeals). He further submits that the entire demand is based on statement dated 22.07.2013 which has been retracted on 23.07.2013 and it is a settled law that retracted statement lacks evidentiary value.

2.1 He further submits that the reliance placed on by the original authority on the proforma invoice dated 05.06.2013 of M/s. Chanzong Yaming Wood Industries Co. Ltd. is misplaced since the laminated sheet therein was mentioned as 2.3 mm with PP covering; while the goods imported by the appellant are of thickness 1.8 mm not having PP covering. He also submits that there is no basis for enhancement of the value and no records have been shared with the appellant to substantiate redetermination of value based on contemporaneous imports, hence, the impugned order needs to be set aside.

3. The learned Authorised Representative (AR) for the Revenue reiterated the findings of the Commissioner (Appeals) in the impugned order.

4. Heard both sides. We find that the entire proceedings are based on the retracted statement. The original authority at para 23 observed as:

> "23. In the light of the decisions cited in the previous paragraphs coupled with the evidence available on record, I find

that the statements are a reliable piece of evidence and that the importer has admitted the misdeclaration of value in his statement given under section 108 of the Customs Act 1962 and has got the goods provisionally released on payment of duty as per the revised assessable value. Thus the declared value of USD 2.4 per sheet for the goods imported vide Bill of Entry no. 2708196/15.07.13 is held liable to rejection as it does not reflect the actual transaction value under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules 2007 and the goods are liable to confiscation under section 111(m) of the Customs Act 1962. The actual value of the consignment is held to be USD 43,500/-(C&F) as per the value of USD 8.7 per sheet as admitted by Shri K. Mohammed in his statement dated 22.07.13 under Rule 3(1) of said Rules in accordance with Rule 12 and read with section 14 of the Customs Act 1962. The revised assessable value is determined to be Rs.26,87,972/- and the corresponding duty payable is Rs. 7,75,528/-."

4.1 And on appeal, the Commissioner (Appeals) para 8 observes as follows:

"8. I have considered the impugned order-in-original and the grounds of appeal at length. I find that there has been suppression of facts and willful undervaluation in this case and deliberate effort to evade the customs duty payable. I also find in this subject case that the contemporaneous import value of 9.2 USD per sheet for similar goods, imported by M/s.Premier Trade Links also show that the value declared in the bill of entry is very low. Further the description of size of the sheet given in the bill of entry is not reflected in the invoice which was submitted at the time of filing the bill of entry shows that it had been fabricated to show a lower value to the customs authority. Hence the malafides of the importer are evident here and the action taken by the adjudicating authority cannot be faulted. So I am left with no option, but to concur with the findings of the adjudicating authority. ………."

5. Based on the above observations of the Commissioner (Appeals), we find that there is no evidence on record nor there is any discussion of the contemporary imports/invoices to enhance the declared value. We also have perused the invoice of M/s. Chanzong Yaming Wood Industries Co. Ltd. and find that the description of the products is different from the goods imported by the appellant; hence, they are not comparable. There is no other evidence placed on record except for the statements which has been retracted; hence, we do not find any reason to uphold the impugned order, hence the same is set aside.

Appeal is allowed.

(Operative portion of the order was pronounced in Open Court on conclusion of hearing.)

(P.A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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