

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SCO 147-148, SECTOR 17-C, CHANDIGARH-160017

DIVISION BENCH
COURT NO.1
Appeal No. C/59800-59803/2013

Sr. No	Case No	Impugned Order Detail's	Date of Impugned Order	Passed By	Appellant	Respondent
1	C/59800/2013-DB	OIA-04-07-CUSTOMS-APPEAL-DLH-IV-2013	26/06/2013	Commissioner of CUSTOMS-DELHI-IV(Appeal)	Varun Overseas	C.C.E.-DELHI-IV
2	C/59801/2013-DB	OIA-04-07-CUSTOMS-APPEAL-DLH-IV-2013	26/06/2013	Commissioner of CUSTOMS-DELHI-IV(Appeal)	Varun Overseas	C.C.E.-DELHI-IV
3	C/59802/2013-DB	OIA-04-07-CUSTOMS-APPEAL-DLH-IV-2013	26/06/2013	Commissioner of CUSTOMS-DELHI-IV(Appeal)	Varun Overseas	C.C.E.-DELHI-IV
4	C/59803/2013-DB	OIA-04-07-CUSTOMS-APPEAL-DLH-IV-2013	26/06/2013	Commissioner of CUSTOMS-DELHI-IV(Appeal)	Varun Overseas	C.C.E.-Delhi-iv

Date of Hearing/Decision: 29.08.2018

Appearance:
Shri. Abhas Mishra, Advocate- for the appellant
Shri. G.S. Dhillon, AR. - for the respondent

CORAM: Hon’ble Mr. Ashok Jindal, Member (Judicial)
Hon’ble Mr. Anil G. Shakkarwar, Member (Technical)

FINAL ORDER NO: **63205-63208 / 2018**

Per Ashok Jindal:

The appellant is in appeal against the impugned orders wherein the value of Borosilicate Glass Tube has been enhanced on the basis of the NIBD data.

2. The facts of the case are that the appellant filed bills of entry as per the description herein below:

1.	C/59800/2013	114500 DR. 07.09.02 115576 DR. 20.04.09 155144 DR. 20.03.09 114119 DR. 02.01.09	Borosilicate Glass Tubes Borosilicate Glass Rods	Price declared @ US \$ 0.75 for Tubes and Rods US \$ 0.55 Pg.12	Price assessed @ US \$ 1.10. for Tubes and 1.95 for Rods Pg.12	NIBD Data	Manufacturer /Exporter	76,739
2.	C/59801/2013	114119 DR. 03.01.09 114500 DR. 02.02.09 155144 DR. 20.03.09 115576 DR. 20.04.09	Borosilicate Tube Borosilicate Rod	Price Declared @ US \$.75 for Tube and US \$.55 for Rods Pg.13	Price assessed @ US \$ 1.10. for Tubes and 1.95 for Rods Pg.15	NIBD Data	Manufacturer Exporter	80,769
3.	C/59802/2013	114119 DR. 02.01.09 114500 DR. 02.02.09 155144 DR. 20.03.09 115576 DR. 20.04.09	Borosilicate Tube Borosilicate Rod	Price Declared @ US \$.75 for Tube and US \$.55 for Rods Pg.14	Price assessed @ US \$ 1.10. for Tubes and 1.95 for Rods Pg.16	NIBD Data	Manufacturer Exporter	91,765
4.	C/59803/2013	114119 DR. 02.01.09 114500 DR. 02.02.09 155144 DR. 20.03.09 115576 DR. 20.04.09	Borosilicate Tube Borosilicate Rod	Price Declared @ US \$.75 for Tube and US \$.55 for Rods Pg.14	Price assessed @ US \$ 1.10. for Tubes and 1.95 for Rods Pg.16	NIBD Data	Manufacturer Exporter	77,248

3. The Revenue is of the view that as NIBD data is available of the said goods, therefore, the value is to be enhanced on the basis of NIBD data. The appellant initially cleared the goods to avoid the detention and demerges charges but challenge the assessments of all the bills of entry for the enhanced value and both the authorities below hold that the appellant has mis-declared the value. Accordingly, the value of imported goods is to be enhanced.

4. Heard the parties and considered the submissions.

5. We find that the sole case of the Revenue is that the appellant has imported Borosilicate Glass Tubes as per the NIBD data available on record shows that the appellant has imported Borosilicate Glass Tubes in the length of 1500 mm and 1200 mm and as per NIBD data value has to be enhanced. We have gone through the NIBD data and description of the goods. In fact, the appellants has imported Borosilicate Glass Tubes of assorted in size and as per the NIBD data, the Revenue has only taken the length of the tubes and have not considered the other assorted diameters of the said tubes. In that circumstances, the NIBD data cannot be relied upon to enhancement of value of the imported goods, therefore, we do not find any merit in the impugned orders, accordingly, enhancement of the value is set aside.

In result, the appeals are allowed with consequential relief.

(Dictated and pronounced in the open court)

Anil G. Shakkarwar
Member (Technical)

Ashok Jindal
Member (Judicial)