IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI

C/00216/2006

[arising out of Order-in-Appeal No.C.CUS.235/06, dated 24.03.2006 passed by the Commissioner of Customs (Appeals), Chennai]

COMMISSIONER OF CUSTOMS [PORT-IMPORT], CHENNAI — APPELLANT

Versus

STUART CLARKE — RESPONDENT

Appearance:

For the Appellant	Shri A. Cletus, ADC (AR)
For the Respondent	None

CORAM:

Hon'be Smt. Sulekha Beevi C.S, Judicial Member

Hon'ble Shri V. Padmanabhan, Technical Member

Date of hearing/decision **21-06-2017**

FINAL ORDER NO. 41096/2017

Per Bench:

The appeal is against Order-in-Appeal No. C.CUS.235/06, dated 24.03.2006.

2. The brief facts of the case are that Mr. Stuart Clarke had filed a Bill of Entry No.926053, dated 12.12.2005 for the import and clearance of one number used Mercedes Benz car, Model E230 and one used Yamaha

motorcycle model FZ600 with the declared value of GBP 1,850 (FOB for the car and GBP 800 (FOB) for the motorcycle. The examination report confirmed the details as declared. However, since the value of the impugned goods was found to be too low, necessary help was taken from the Parker's Guide 2003 for the valuation of car and Black Book for the valuation of motorcycle. After giving maximum 70% discount from the price in year of manufacture, 15% trade discount and 14% VAT discount the value of the car was arrived at GBP 6688.16. In the present case, we deal only with the import of the car. Since the importer produced three different prices from three different sources and the price quoted by M/s. Daimler Chrysler [manufacturer's dealer in India] was far below than the one quoted by Temporary Membership certificate, which is more or less equal to the price quoted in Parker's Guide 2003, the same was taken and depreciation as worked out above to arrive at the correct value.

3. When the assessment was challenged before Commissioner (Appeals), he ordered for the car to be assessed on the basis of the price submitt3ed by the Indian dealer of Mercedes Benz. Aggrieved by the impugned order, Revenue has filed the appeal.

4. With the above background, we have heard Shri A. Cletus, ADC (AR) on behalf of Revenue. None appeared for the respondents.

5. The learned departmental representative submitted that it is standard practice in the Custom House to refer to Parker's Guide for ascertaining the price of used car. The learned Commissioner (Appeals) has disregarded the same and allowed the assessment on the basis of the price indicated by the Indian dealer of Mercedes Benz. As such, the value cannot be

Customs, Excise & Service Tax Appellate Tribunal accepted for assessment purpose, since the same has not been furnished by the manufacturer himself. He further submitted that the assessable value of the car was worked out on the basis of Parker's Guide as amounting to Rs.5,30,037/-, whereas, the assessable value worked out on the basis of Indian dealer's letter comes only to Rs.3,63,600/-. He submitted that the used car should be assessed on the basis of the value ascertained from Parker's Guide.

6. From the perusal of records, we find that the assessment value of the used car, three prices are available for consideration —

(i) as per the Parker's guide;

(ii) as per the temporary certificate in the country of export; and

(iii) as ascertained from the Indian dealer of Mercedes Benz.

7. In the impugned order, Commissioner (Appeals) has recorded that the long established practice in the Customs House was to determine the value of the used car by taking help from the Parker's Guide and giving Depreciation of 70%, Trade Discount of 15% and VAT Discount of 14%. He has further recorded that such long established practice becomes the approved method of valuation. We further find that the original authority has valued the car on the basis of Parker's Guide. However, in the impugned order Commissioner (Appeals) has allowed the car to be assessed at the lower price as informed by the Indian dealer of Mercedes Benz. However, such information has been submitted by the dealer without having the relevant invoices details from the manufacturer. Hence, we are of the view that for valuation of such used car has to be done on the basis of Parker's Guide by giving appropriate Depreciation, Trade Discount

and VAT Discount. Such a procedure has also been approved by the Tribunal in the case of *Sunil Kumar Gupta Vs Commissioner of Customs, Nava Sheva* reported in *2002 (145) E.L.T.73 (Tri.-Mum.)*

8. In view of the above, the appeal filed by Revenue is allowed.

(Operative part of the order pronounced
in open court on **21.06.2017**)

(V. PADMANABHAN)
TECHNICAL MEMBER

Sulekha Beevi

(SULEKHA BEEVI C.S)
JUDICIAL MEMBER

ksr
23-07-2016

प्रमाणित प्रति/Certified True Copy
17/7
सहायक पंजीकार/Asst. Registrar
सीमाशुल्क उत्पादशुल्क एवं सेवा कर
अपील अधिकरण/(CESTAT)
चेन्नै/Chennai

Customs, Excise & Service Tax Appellate Tribunal
सत्यमेव जयते