CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
CHENNAI

Appeal Nos.C/474/2004 & C/475/2004

[Arising out of Order-in-Original No.2934/2004 dt. 30.09.2004 passed by the Commissioner of Customs (Seaport-Imports), Chennai]

1. Karnataka Soaps & Detergents Ltd.
2. Ruchi Soya Industries Ltd. — Appellant

Versus

Commissioner of Customs (Seaport-Imports)
Chennai — Respondent

Appearance:

Shri S. Murugappan, Advocate
For the Appellant

Shri K. Veerabhadra Reddy, JC (AR)
For the Respondent

CORAM :

Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Madhu Mohan Damodhar, Technical Member

Date of hearing: 13.01.2017
Date of Pronouncement : 24.03.2017

FINAL ORDER No. 40529 – 40530/2017

Per Madhu Mohan Damodhar

Brief facts of the case are that M/s.Karnataka Soaps & Detergents Ltd., the first named appellant herein (hereinafter referred to as "KSDL") filed two Bills of Entry No.550460 dated 05.11.2003 and No.551112 dated 07-11-2003 respectively for clearance of 101.230 MTs and 108.780 MTs of Palm Kernel Fatty Acid Distillate. The goods had been purchased on High Seas basis from one M/s.General Foods Ltd., now M/s.Ruchi Soya Industries Ltd., the second named appellant herein, (hereinafter referred to as "Ruchi Soya"). The Bills of Entry were assessed on 'Second Appraisement basis' with instructions to verify the description with reference to Analysis Certificate or Technical Literature and Original or Bank attested import documents.

2. On inspection, while examining documents accompanying the Bills of Entry, Customs noticed apparent misdeclaration in invoicing.

3.1 On further investigation, leading to recovery of incriminating documents, the following emerged :

(i) Examination of goods covered by **Bill of Entry No.550460 dated 05.11.2003,** revealed that description of goods was not stated on the Flexitanks but the seal numbers only appeared thereon was declared in the Packing List.

(ii) The Invoice and Packing List were obtained from different parties and the Invoice amount appearing on the Packing List differed with that in Bill of Entry. The Invoice and Packing List pertained to the same Bill of Lading.

(iii) Scrutiny of documents recovered during the course of investigation revealed that the goods covered by **Bill of Entry No.550460 dated 05.11.2003** were sold **by M/s. KALMART SYSTEMS (M) SDN BHD, Malaysia to M/s. Aavanti Industries Pte. Ltd., Singapore** at a price of **USD 40,238.93 FOB** for export to India.

(iv) The invoice value mentioned in the Packing List was found to be **USD 40,238.93** as against **USD 30,470.23 (C&F)** declared in the Bill of Entry and the invoice.

(v) The goods covered by **Bill of Entry No.551112 dated 07.11.2003** were sold by **M/s. MAMBA SDN BHD., Malaysia to M/s. Aavanti Industries Pte. Ltd., Singapore** at a price of **USD 41,880.30 FOB** for export to India.

(vi) On examination of the goods covered by **Bill of Entry No.551112 dated 07.11.2003,** it was found that the description of goods was not marked on the packages. Invoice and Packing List were from different parties, i.e. from M/s. Aavanti Industries Pte. Ltd., Singapore and M/s. MAMBA SDN BHD., Malaysia.

(vii) The actual transaction values of the goods covered by **Bill of Entry Nos.550460 dated 05.11.2003** and **551112 dated 07.11.2003** were **USD 40,238.93 FOB** and **USD 41,880.30 FOB** respectively.

(viii) Taking the Transaction Values mentioned above and adding actual Freight and the Insurance amounts plus 1% Commission, the total assessable value of the goods imported under the **Bills of Entry No.550460 dated 05.11.2003** and **No.551112 dated 07.11.2003** were liable to be determined at **Rs.19,21,664/- and Rs.20,04,593/-** respectively.

3.2 Against request of General Foods Limited, Chennai made on 24.11.2003 and 25.11.2003 for release of the goods against Bank Guarantee for the differential duty amount pending enquiry/verification provisionally and if BG was not acceptable, such release to be allowed on payment of differential duly under protest, Authority ordered provisional release of the goods.

3.3 The goods covered by **Bill of Entry No.550460 dated 05.11.2003** were released provisionally on execution of test bond and on payment of duty under protest adopting the price USD 408.613 (C&F) taking FOB as USD 397.5 PMT.

3.4 The goods covered by **Bill of Entry No.551112 dated 07.11.2003** were also released provisionally on execution of test bond and on payment of duty under protest by adopting the price of USD 396.58 (C&F) taking FOB as USD 385.00 PMT.

3.5 Upon testing of the goods covered by the Bills of Entry **No.550460/05.11.2003 and 551112/07.11.2003** it came to light in terms of Test Report Nos.2941/MCH dated 03.12.2003 and 2942/MCH dated 03.12.2003 and Test Memo Nos. S-33/413/2003-Gr-II and S-33/414/2003-Gr-II respectively that the goods were as declared, viz. Palm Kernel Fatty Acid Distillate.

4. A show cause notice dt. 11.5.2004 was issued to both the appellants *inter alia* proposing (i) rejection of value declared in Bill of Entry No.550460 dt. 05.11.2003, determination of unit price of goods at US$ 397.50 PMT (FOB), total assessable value of goods at Rs.19,21,664/-, and corresponding duty liability at Rs.9,76,206/- (ii) rejection of value of declared in Bill of Entry No.551112 dt. 07.11.2003, determination of unit price of goods at US$ 385 PMT

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(FOB), total assessable value of goods at Rs.20,04,593/- and corresponding duty liability at Rs.10,18,333/-. (iii) confiscation of the goods contained in both the Bills of Entry under Section 111 (m) of the Customs Act,1962 (iv) imposition of penalties on KSDL and General Foods Ltd. (now Ruchi Soya) under Section 112 (a) ibid.

5.1 Upon due process of adjudication, the original authority vide order dt. 30.09.2004 (Impugned Order) confirmed the aforesaid proposals.

5.2 The consequence of adjudication in respect of Bill of Entry No.550460 dated 05.11.2003 resulted as under:

(a) Declared value was rejected and the unit price of the goods covered therein was determined at USD 397.50 PMT (FOB) under Rule 4 of the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988. The total assessable value of the goods covered by that B/E was determined at Rs.19,21,664/- (Rupees Nineteen Lakhs Twenty One Thousand Six Hundred and Sixty Four only) and assessed accordingly.

(b) Duty liability of Rs.9,76,206/- was determined in final assessment and Admitted duty of Rs.7,19,347- + Provisional Differential duty of Rs.2,56,859/- paid provisionally were adjusted/appropriated against the duty demand.

(c) The imported goods being misdeclared was confiscated under Section 111 (m) of the Customs Act, 1962.

5.3 The consequence of adjudication against Bill of Entry No.551112 dated 07.11.2003 were:

(a) Declared value was rejected and the unit price of the goods therein was determined at USD 385 PMT (FOB) under Rule 4 of the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988. Total assessable value of the goods was determined at Rs.20,04,593/- (Rupees Twenty Lakh Four Thousand Five Hundred and Ninety Three only) and accordingly assessed.

(b) Duty of Rs.10,18,333/- was levied and amount of Rs.10,18,334/- (Admitted duty of Rs.7,73,174/- + Provisional Differential duty of Rs.2,45,159/-) paid provisionally was adjusted/appropriated against the total duty demand;

5.4 The goods imported being misdeclared, that was confiscated under Section 111 (m) of the Customs Act, 1962 imposing redemption fine of Rs.2,00,000/-.

5.5 Penalty of Rs.1,00,000/- each were imposed on the importer M/s. Karnataka Soaps & Detergents Ltd., and the High Seas Seller, M/s. General Foods Limited, respectively.

5.6 Lower authority in para 25 (vii) of the impugned adjudication order has also analysed the applicability of Board's Circular No.32/2004 dated 11-05-2004 with regard to appellant's reliance thereon in the context of acceptance of High sea sales price as under:

> "The Central Board of Excise & Customs, New Delhi in its Circular No.32/2004-Cus. dated 11th May, 2004 which also is relied upon by the

importers has instructed that the price paid for High Sea Sales shall be considered as transaction price; such advice was given in the context as to whether commission paid to the High Sea Seller, additional expenses, etc., should be included in value and the decision of the Board based on judicial pronouncements was again to include such additional expenses and accept the High Sea Sale price as the transaction price. However, the said Circular of the Board stipulates that the importer has to furnish the entire chain of documents, such as Original Invoice, High Sea Sales Contract, details of service charges/commission paid, etc. to establish a link between the first international transfer of goods to the last transaction and in case of doubt regarding the truth or accuracy of the declared value, the Department may reject the declared transaction value. Thus, the said circular of the Board requires acceptance of the High Sea Sales as the transaction price subject to the condition that the same is found to be true and accurate. As discussed above, on examining in the light of the entire chain of documents including the original invoice as directed by the CBEC in the said circular, the declared price was found much lower than the actual price paid/payable for the goods sold for export to India, having no nexus or proximity with the original invoice price and such gross reduction for reasons other market fluctuations or other commercial considerations was not permissible in terms of Rule 4 (2) of Customs Valuation Rules. Accordingly, the declared price was found to be not acceptable as transaction value in terms of Rule 4 (2) ibid as discussed above and in the alternative, the price actually paid or payable to the exporter abroad as per his invoice when the impugned imported goods were sold for export to India without any reduction as prohibited under Rule 4 (2) of the Customs Valuation Rules, 1988 therefrom was considered as the acceptable transaction value under Rule 4 (1) ibid. In the special circumstances of the present case where once the reduction in price as prohibited under Rule 4 (2) is disallowed and the actual price restored, the actual, legally consistent transaction price of the imported goods satisfying all the ingredients of the Customs Valuation Law as laid down in Section 14 (1) of the Customs Act, 1962 and Rule 4 (1) of the Customs Valuation Rules, 1988 in itself emerges as transaction value acceptable under Rule 4 (2) *ibid.* It is well settled in law that when manufacturer's invoice is available and is genuine, it is the best evidence of the price of the imported goods and in that case there is no need to go to other contemporaneous imports of identical or similar goods, etc. In this regard, I place reliance on the decision of the Hon'ble CEGAT in the case

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of Sai Impex Vs Collector of Customs 1992 (62) ELT 616 (Tri.) which was confirmed by the Hon'ble Supreme Court in the case of Collector of Customs Vs Sai Impex 1996 (84) ELT 47 (SC) and on the decision of the CESTAT in Finacord Chemicals (P) Ltd. Vs Commissioner of Customs, Raigad 2003 (157) ELT 537 (Tri.). In the present case, in place of manufacturer's invoice, the invoice issued by the original supplier-exporter of the country wherefrom the goods were sold for export is available which is undisputedly authentic and genuine and as good as manufacturer's invoice in the facts and circumstances of the present case and is therefore, the best evidence of the price paid or payable for the imported goods, i.e., the transaction value of the imported goods under Rule 4 (1) of the Customs Valuation Rules, 1988 meriting to be accepted under Rule 4 (2) *ibid* as discussed above."

6. Aggrieved the appellants have filed these appeals. On 13.01.2017, when the matter came up for hearing, on behalf of appellants, Shri S. Murugappan, Advocate appeared and reiterated the grounds of appeal and also made oral submissions, which can be broadly summarised as under :

(a) It is totally inappropriate to conclude that there are two sets of invoices for the same goods. As far as importation of the goods into India is concerned, there is only one set of invoices raised by the foreign supplier based at Singapore viz., Aavanti Industries Pte. Ltd. As per those invoices raised on General Foods Ltd., Chennai the goods are supplied at unit price of US$ 301/- PMT C&F. It is totally a different matter that the Singapore supplier viz. Aavanti Industries Pte Ltd. purchased these goods from two manufacturers based at Malaysia at a higher price i.e. US$ 397.50 PMT FOB (in respect of 101.230 MTs) and US$ 385.00 PMT FOB (in respect of 108.780 MTs).

(b) As far as importation into India is concerned, the transaction is covered by the invoices raised by Aavanti Industries Pte. Ltd., Singapore on the Indian importer viz. General Foods Limited, Chennai (now Ruchi Soya) and the subsequent high seas sales invoice raised by General Foods Limited on the appellants. This transaction is covered by a firm contract entered into during June 2003 and based on such contract, the sale has been made by General Foods Ltd., Chennai on high seas sales basis to KSDL.

(c) Hence, at what price the Singapore supplier of the goods has procured the material becomes totally irrelevant to the present transaction. It is purely a transaction between the Malaysian manufacturers and the Singapore supplier. It also has to be noted that the Singapore supplier has supplied the goods at the agreed rates to General Foods Ltd. and thus, evidently there is a loss for Aavanti Industries Pte. Ltd., Singapore in the transaction.

(d) In para 25 at page 17 of the impugned order, the adjudicating authority has observed that the high seas sales price is lower than the price paid / payable to the exporter abroad and such price is inconsistent with the normal practice. He also has made the assertion that high seas sales prices should be higher in the ordinary course than the price paid to the exporter abroad. These are nothing but presumptions and there is no law stating that the high seas sales price should be higher than the price paid to the exporter abroad.

(e) The adjudicating authority has made a fatal error when in para 25 (v) of the impugned order in concluding that invoice prices shown in the supply invoices of the Malaysian manufacturers raised on Aavanti Industries Pte Ltd., Singapore are the prices which were actually paid or payable for the goods sold for export to India by the Malaysian exporter concerned. The adjudicating authority has completely lost sight of the fact that those invoices are confined to the transaction between the Malaysian supplier and the Singapore buyer. These invoices are raised on the Singapore buyer for the supplies received by them. Thus, these invoices refer to a transaction between a Malaysian party and a Singapore importer. It has also happened that the same consignment has been resold by the Singapore buyer to the Indian importer viz. General Foods Ltd. Therefore, what is relevant to be considered as price for export to India is only the price stated in the invoice raised by the Singapore supplier on the Indian importer viz. General Foods Ltd.

(f) As per Rule 4 of the Customs Valuation Rules, 1988, the transaction value of imported goods should be the price actually paid or payable for the goods when sold for export to India. The rule further provides that this price should be adjusted in accordance with the provisions of Rule 9 of Valuation Rules. The relevant expression here is the price paid or payable for the goods "when sold for export of India". In no circumstances, the invoices raised on the Singapore supplier by the Malaysian manufacturers for supply of the material to him at Singapore can be treated as the price for the goods sold for export to India.

7. On the other hand, Shri K. Veerabhadra Reddy (JC), Ld. A.R for the Revenue supported the adjudication.

8. Heard both sides and have gone through the submissions made by them as well as facts on record.

9. The issue that therefore comes up for decision is the price of the goods that should be adopted for determining assessable value, namely, the prices at which the Singapore supplier procured the goods or otherwise the price at which the said supplier invoiced the goods to the high seas buyer.

10. Appellant has vociferously contended that they had entered into firm contract in June 2003 with General Foods (now Ruchi Soya); that the sale has been made by the latter on high seas basis to KSDL; hence at what price Singapore buyer-supplier of the goods has procured the material becomes totally irrelevant to the present transaction, since it is purely a transaction between Malayasian manufacturer and Singapore supplier.

11. To examine the defence plea of the appellants, various details concerning invoice, accompanying documents submitted with both the Bills of Entry and other documents obtained from General Foods (now Ruchi Soya) in the course of investigation which are relevant are tabulated below :

	Bill of Entry No.550640 dt. 05-11-2003	Bill of Entry No.551112 dt. 07-11-2003
INVOICE	S01/70/045445 dt. 17-10-2003 of M/s. Aavanti Industries, Singapore 101.230 MTs Unit price = USD 301.00(C&F) Amount = USD 30470.23 B/L: NOVPKGCHE0210 dt.10-10-2003 For 101.230 MTs corresponding Invoice No.KSS019903/370 dt. 10-10-2003 of Kalmart Systems, Malaysia to M/s.Aavanti Industries, Singapore Qty : 101.230 MTs Unit price=USD 397.50 PMT (FOB Port Klang) Amount=USD40238.93 B/L:NOVPKGCHE0210 Dt.10-10-2003	S01/70/045454 dt. 22-10-2003 of M/s.Aavanti Industries, Singapore 108.780 MTs Unit price= USD 301.00 (C&F) Amount= USD 32742.78 B/L: NOVPKGCHE4210 dt.17-10-2003 For 108.780 MTs corresponding Invoice No.MA046/10/03 dt. 14-10-2003 of MAMBA SDN BHD, Malaysia to M/s.Aavanti Industries, Bangalore Qty: 108.780 MTs Unit Price=USD 385.00 PMT (FOB Port Klang) Amount=USD 41880.30
BILL OF LADING	No.NOVPKGCHE0210 dt.10-10-2003 Port of loading: Port Klang, Malaysia <u>Shipper:</u> M/s.Kalmart Systems, Malaysia	No.NOVPKGCHE4210 dt.17-10-2003 Port of loading: Port Klang, Malaysia <u>Shipper</u>: M/s.MAMBA SDN BHD, Malaysia
CERTIFICATE OF ORIGIN	KUALALUMPUR & SELANGOR INDIAN CHAMBER OF COMMERCE & INDUSTRY dt. 17-10-2003. <u>EXPORTER</u> : mentioned as M/s.KALMART SYSTEMS, Malaysia. <u>Invoice Certified</u> of M/s. Kalmart Systems No.KSS019903/370 <u>Name of Signatory company on Certificate</u> M/s.Kalmart Systems.	MALAYSIAN INTERNATIONAL CHAMBER OF COMMERCE & INDUSTRY dt. 21-10-2003 <u>EXPORTER</u> : mentioned as M/s.MAMBA SDN BHD, Malaysia <u>Invoice certified</u> of M/s.MAMBA SDN, BHD, Malaysia No.MA046/10/03 <u>Name of Signatory company on Certificate</u> M/s.MAMBA SDN BHD, Malaysia

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	IMPORTER : M/s.General Foods Ltd., Chennai	IMPORTER : M/s.General Foods Ltd. Chennai
HIGH SEAS SALE AGREEMENT	Dt. 13-10-2003 between General Foods Ltd., Chennai & Karnataka Soaps & Detergents Ltd.	Dt. 21-10-2003 between General Foods Ltd., Chennai & Karnataka Soaps & Detergents Ltd.
CONTRACT BETWEEN GENERAL FOODS LTD. & AAVANTI INDUSTRIES, SINGAPORE	Dt.28-08-2003 No.DO3082150 for supply of 250 MTs +/- 2% of Palm Kernel Fatty Acid Distillate	
PURCHASE ORDER OF KSDL	Dt.12-06-2003 with General Foods Ltd. for supply of 750 MTs +/- 5 MTs of Palm Kernel Fatty Acid Distillate.	

12. In respect of goods imported vide Bill of Entry No.550460 dt. 05-11-2003, the invoice that has been submitted is SO1/70/045445 dt. 17-10-2003 of M/s.Aavanti Industries, Singapore. The invoice value is shown as USD 301.00 PMT and US$ 30470.23 (C&F) for 101.23 MTs of Palm Kernel Fatty Acid Distillate. However, in the accompanying Bill of Lading dt. 10-10-2003, the shipper has been mentioned as M/s.Kalmart Systems, Malaysia. Even more curiously, the Certificate of Origin dt. 17-10-2003 submitted along with said Bill of Entry certifies the exporter as M/s.Kalmart Systems, Malaysia and party to be notified as M/s.General Foods Ltd., Chennai. The Bill of Lading number indicated therein is the same as that submitted by the appellant at the time of import. Most interestingly, invoice that is certified therein is not the invoice No.SO1/70/045445 dt. 17-10-2003 of M/s.Aavanti Industries, Singapore which was submitted along with Bill of Entry, but the **Invoice No.KSS019903/370 dt. 10-10-2003**

of Kalmart Systems, Malaysia for 101.230 MTs of Palm Kernel Fatty Acid Distillate. From the record, it emerges that this invoice has actually been issued by Kalmart Systems (Malaysia) SDN BHD, Malaysia to Aavanti Industries Pte. Ltd., Singapore at unit price of US$ 397.50 PMT (FOB) and total amount is US$ 40238.93. However, the destination is not shown as Malaysia to Singapore but as "SHIPPED FROM PORT KLANG, MALAYSIA TO CHENNAI, INDIA". This fact is also confirmed by the Invoice for ocean freight dt. 10-10-2003 issued by M/s.Eagle Transworld Shipping Lines where the port of loading is indicated as "PORT KLANG" and port of discharge as "CHENNAI, INDIA". It therefore transpires that the very same consignment of 101.230 MTs of Palm Kernel Fatty Acid Distillate in the same containers/flexi bags shown as invoiced by M/s.Kalmart Systems, Malaysia to M/s.Aavanti Industries, Singapore, nonetheless were shipped directly by Kalmart Systems to General Foods Ltd., Chennai. There is no dispute on these facts.

13. Similarly, in case of goods imported vide Bill of Entry No.551112 dated 07-11-2003, though the importers had submitted invoice No.SO1/70/045454 dt. 22-10-2003 of Aavanti Industries Pte.Ltd., Singapore, the Bill of Lading shows the shipper as "M/s.MAMBA SDN BHD, Malaysia" pertaining to above invoice. So also, the Certificate of Origin dt. 21-10-2003 issued by Malaysian International Chamber of Commerce & Industry certifies that exporter is "MAMBA SDN BHD, Malaysia", party to be notified is

"M/s.General Foods Ltd., India", port of loading is "Port Klang, Malaysia", port of discharge is "Chennai, India" and Invoice number is MA/046/10/03. As in the previous case, this invoice is the one issued by MAMBA SDN BHD, Malaysia on 14-10-2003 to Aavanti Industries Ltd., Singapore pricing the goods at US$ 385.00 PMT (FOB) and total value at US$ 41880.30 for 108.780 MTs of Palm Kernel Fatty Acid Distillate. However, at the same time invoice of Aavanti Industries submitted by the importer along with Bill of Entry was for US$ 301 PMT and total value US$ 32742.78 as in the case of the previous Bill of Entry. It is not disputed that very same impugned 108.780 MTs, in the very same drums/containers and covered by very same Bill of Lading had moved directly from MAMBA SDN BHD (Malaysia) to General Foods Ltd. (Chennai).

14.1 It is also not the case of appellant that Aavanti Industries, Singapore were having large quantities of impugned goods continuously, storing and agglomerating them in Singapore and selling them in piecemeal to various buyers like the appellant at contracted prices.

14.2 On the other hand, what is seen is that exact quantity of impugned goods invoiced by Aavanti Industries, Singapore to General Foods Ltd., Chennai viz. 101.230 MTs pertaining to B/E 550640 dated 05-11-2003 and 108.780 MTs pertaining to B/E No.551112 dt. 07-11-2003, both filed by KSDL have been directly consigned and shipped directly from Port Klang, Malaysia to Chennai, by Kalmart Systems, Malaysia and Mamba SDN BHD, Malaysia respectively, in the same packing and containers indicated in the 'invoices' of Aavanti, Singapore instead of General Foods, Chennai.

14.3 It does not appeal to reason, then, as to why the identical goods, sold Free on Board (FOB) at Port Klang, Malaysia at USD 397.50 PMT and USD 385.00 PMT, as is evident from the respective invoices of Kalmart Systems, Malaysia and Mamba SDN BHD, Malaysia, then re-invoiced by Aavanti, Singapore, find their PMT cost plummeting downwards by around 24.2% and 21.8% respectively to 301 USD PMT, in spite of the Terms of Shipment now being shown as Cost & Freight and hence freight forming an additional cost component.

14.4 It is therefore but evident that this is only a paper trial created by the players involved to create a subterfuge that the value of the goods imported is only US$ 301.00 PMT.

14.5 Discernably, elaborate planning has gone into the entire modus operandi right from the creation of "High Seas Sale Agreements" dated 13-10-2003 and 21-10-2003 between General Foods Ltd. (now Ruchi Soya) and KSDL, in the "Contract" between General Foods Ltd. (now Ruchi Soya) and Aavanti Industries, Singapore dated 28-03-2003 and in the "Purchase Order" dated 12-06-2003 of KSDL with General Foods Ltd., the entire exercise culminating in all "invoices" No.SO1/70/045445 dt. 17-10-2003 and SO1/70/045454 dt. 22-10-2003 both being issued by Aavanti Industries Pte. Ltd., Singapore for supply of the impugned goods at US$ 301 PMT only.

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14.6 But notwithstanding their best efforts at camouflage and subterfuge, the proof that impugned goods have actually been invoiced and sent by Kalmart Systems (Malaysia) and Mamba Sdn, Bhd, Malaysia to General Foods Ltd., (now Ruchi Soya), Chennai, which, as found above, has been certified even in the Certificate of Origin accompanying the goods gives the lie to these efforts of the appellant to underdeclare the import value and thereby discharge lower customs duty liability than what that would have been required to.

14.7 Obviously then, what was certified in the accompanying certificates of origin was only in respect of goods sold and invoiced by Kalmart Systems (Malaysia) and M/s. MAMBA SDN BHD (Malaysia) and **not** by Aavanti Industries (Singapore). These Certificates of Origin have further certified the Name of Signatory Company as M/s.Kalmart Systems, Malaysia and M/s.Mamba SDN BHD. If the importer wants the customs authorities to accept as genuine these certificates of origin as also the Bills of Lading, Packing List etc. certified therein, by implication, the invoices of Kalmart Systems (Malaysia) and MAMBA SDN BHD (Malaysia) who stand certified on those documents will only get credence and be accepted for the purpose of determining the transactions.

14.8 This being the case, the Invoice No.KSS01 9903/370 dt. 10-10-2003 of Kalmart Systems (Malaysia) for unit value of US$ 397.50 PMT and Invoice No.MA046/10103 dt. 14-10-2003 of Mamba Sdn Bhd (Malaysia) for unit value of USD 385.00 will have to be necessarily taken as the correct invoice and transaction value and consequently for determination of assessable value in respect of goods covered by B/E No.550460 and 551112 respectively. These would be the correct prices paid or payable for the purposes of Rule 4 (1) of the Customs Valuation Rules, 1988.

15. In the event, we do not find any reasons whatsoever to interfere with the impugned order. In consequence, both the appeals are dismissed.

(Pronounced in open court on 24.03.2017)

24 03 2017

(Madhu Mohan Damodhar)
Technical Member

24.3.2017

(D.N. Panda)
Judicial Member

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Customs Excise & Service Tax Appellate Tribunal

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