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

**Appeal No. C/266/2007**

[Arising out of Order-in-Original No.6041/2007 dt. 21.03.2007 passed by the Commissioner of Customs (Seaport-Import), Chennai]

Rave Graphics — Appellant

Versus

Commissioner of Customs (Seaport-Imports)
Chennai — Respondent

Appearance:

Shri A.K. Jayaraj, Advocate
For the Appellant

Shri B.Balamurugan, AC (AR)
For the Respondent

**CORAM :**

**Hon'ble Ms. Sulekha Beevi C.S. Member (Judicial)**
**Hon'ble Shri V. Padmanabhan, Member (Technical)**

Date of hearing / decision : 23.06.2017

**FINAL ORDER No.** 41110/2017

**Per Bench**

The present appeal is against the OIO No. 6041/2007 dt. 21.03.2007.

2. Appellant imported certain used offset printing machines along with standard accessories from M/s.J-Tech International, Seoul, Korea and declared the transaction value of US$ 16000 [equivalent to Rs.7,41,600] and filed necessary Bill of Entry No.517890 dt.

same. There is nothing on record to doubt or disapprove the load port Chartered Engineer. The main reason for disregarding such certificate as indicated by the adjudicating authority is that the year of manufacture as certified by the load port chartered Engineer does not tally with actual particulars found on examination.

6. After perusal of the certificate given by the local Chartered Engineer as well as from the load port, we note that local Chartered Engineer was not in possession of any additional information to decide the valuation. Virtually, he has not given any reference to the technical manual or information based on which value of the machines have been reassessed. In fact, the local Chartered Engineer has indicated the year of manufacture of offset printing machine different to that of Chartered Engineer at load port in respect of one or two machines. In the light of the above, we are of the view that customs authorities have rejected the opinion of one expert simply on the basis of opinion by another expert. We note that there is no other sufficient independent reason for such rejection. Such rejection has been held as not a valid basis for rejection of Chartered Engineer certificate in the case of *Anish Kumar Spinning Mills* (supra). The said decision has also been approved by the Hon'ble Supreme Court reported in 2005 (182) ELT A92 (SC), hence is binding on this Bench. By following the said decision, it is to be held that reassessment value on the basis of local Chartered Engineer certificate is not valid. Consequently, the declared value backed by the Chartered Engineer certificate from the originator is to be accepted.

7. Admittedly, the imported goods are more than 10 years old in terms of Import Trade Control Regulations in EXIM 2002-07 read with para 3.3 of the Handbook of Procedures of Vol-I. The importers have

violated the provisions of Foreign Trade (Development and Regulation) Act, 1992. The goods are therefore liable for confiscation under Section 111 (d) of the Customs Act, 1962.

8. Consequently, the importers are liable for imposition of penalty also under Section 112 (a) ibid.

9. Keeping in view the facts and circumstances of this case, we reduce the redemption fine to **Rs.75,000/-** (Rupees seventy five thousand only) and the penalty imposed to **Rs.40,000/-** (Rupees forty thousand only).

Appeal is partially allowed in the above terms.

(Operative part of the order pronounced in

open court on 23.06.2017)

**(V.Padmanabhan)**
**Member (Technical)**

**(Sulekha Beevi C.S)**
**Member (Judicial)**

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Customs, Excise & Service Tax Appellate Tribunal

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31/7
सहायक पंजीकार / Asst. Registrar
सीमाशुल्क उत्पादशुल्क एवं सेवा कर
अपील अधिकरण / (CESTAT)
चेन्नै / Chennai