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

Appeal No.C/336/2010

[Arising out of Order-in-Appeal No.20/2010 dt. 27.4.2010 passed by the Commissioner of Customs & Central Excise (Appeals), Tiruchirapalli]

Commissioner of Customs
Tuticorin — Appellant

Versus

Hum India Fab (P) Ltd. — Respondent

Appearance:

Shri A. Cletus, ADC (AR)
For the Appellant

Shri T. Sundaranathan, Advocate
For the Respondent

CORAM :

Hon'ble Ms. Sulekha Beevi C.S. Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of hearing / decision : 25.10.2017

FINAL ORDER No. 42373/2017

Per Bench

Appellant had imported cotton / polyester fabrics through Tuticorin port under 21 Bills of Entry during the period January to November 2008. Original authority while assessing the goods had enhanced the value of the goods imported and appellant had in fact cleared the goods after payment of duty accordingly. However, it appears that they had approached the original authority for a speaking order and since the same was not issued, they approached the Commissioner (Appeals) who, in a common order dt. 24.03.2009, rejected the appeals. On appeal to the CESTAT Chennai, vide Final Order No.1270 to 1290/09 dt. 10.09.2009 of the Tribunal disposed of 21 appeals by dismissing two appeals and matter was remanded back to the Commissioner (Appeals) with direction to consider condonation of delay in respect of three appeals and dispose of all the appeals afresh in accordance with law. In de novo proceedings relating to 19 Bills of Entry, Commissioner vide Impugned order dt. 27.04.2010 allowed the appeal by ordering re-assessment in respect of 19 Bills of Entry. Aggrieved, department are before this forum.

2. Today, when the matter came up for hearing, on behalf of department, Ld. A.R Shri Cletus reiterates the grounds of appeal and submits that appellant had accepted the assessment and therefore order of the Commissioner (Appeals) is not correct.

3. On the other hand, Ld. Advocate Shri T. Sundaranathan supports the impugned order.

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4. Heard both sides and have gone through the facts. From the impugned order, it is seen that the Commissioner (Appeals) has observed that appellant had approached the lower authority for speaking orders and that no orders had been issued. He has also relied upon number of case laws in para 3.6 and 3.7 of the order and has arrived at a conclusion that the assessments of the impugned Bills of Entry by original authority by enhancing the value based on contemporaneous price of the goods are not maintainable and for which reason only he has allowed the appeal ordering re-assessment based on invoice value. It is seen that there is sufficient application of mind on the part of the Commissioner (Appeals) for which reason, we do not find any infirmity in the same. Appeal filed by department is therefore dismissed.

(dictated and pronounced in court)

(Madhu Mohan Damodhar)
Member (Technical)

(Sulekha Beevi C.S)
Member (Judicial)

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