IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT NO. I

Customs Appeal No. 40535 of 2014

AND

Customs Appeal No. 40536 of 2014

(Arising out of common Order-in-Appeal C.Cus. No. 1835 & 1836/2013 dated 19.12.2013 passed by the Commissioner of Customs (Appeals), No. 60, Rajaji Salai, Custom House, Chennai – 600 001)

M/s. Technigroup International Private Limited **: Appellant**
1-3, A-Wing, Delphi Building,
Hirannandani Business Park, Powai,
Mumbai – 400 076

VERSUS

Commissioner of Customs **: Respondent**
Custom House, No. 60, Rajaji Salai,
Chennai – 600 001

APPEARANCE:

Shri N. Viswanathan, Advocate for the Appellant

Shri Harendra Singh Pal, Assistant Commissioner for the Respondent

CORAM:

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NOs. 41117-41118 / 2023

DATE OF HEARING: 31.10.2023
DATE OF DECISION: 13.12.2023

Order : [Per Hon'ble Mr. P. Dinesha]

These appeals are filed by the importer-appellant against the common Order-in-Appeal C.Cus. No. 1835 & 1836/2013 dated 19.12.2013 passed by the Commissioner of Customs (Appeals), Chennai.

2.1 The present dispute lies on a very narrow compass; the admitted facts are that the importer imported 'used office furniture' declaring a certain value which was not accepted by the Revenue. Hence, the Department required the assistance of a Chartered Engineer to evaluate the exact value of the imported used furniture.

2.2 Accordingly, the Chartered Engineer vide Inspection Report dated 05.08.2013 gave his report whereby the said Chartered Engineer has considered new equipment value and arrived at a different value for the imported goods in question.

3. Best on the above Inspection Report of the chartered engineer, the original authority vide Order-in-Original No. 21933/2013 dated 16.09.2013 and Order-in-Original No. 21932/2013 dated 19.09.2013 has rejected the declared value of the used goods and has determined the value at an enhanced rate. The difference is about Rupees two lakhs and the officer has given an option to redeem the same on the payment of redemption fine of Rs.5,00,000/- and Rs.10,00,000/- respectively, apart from penalty of Rs.2,00,000/- and Rs.5,00,000/- respectively under Section 112 (a) of the Customs Act, 1962.

4. It appears that the importer filed appeals before the first authority and the first appellate authority having considered the plea of the importer–appellant, per impugned Order-in-Appeal has partly allowed the appeals of the appellant by reducing the redemption fine to Rs.3,00,000/- and Rs.5,00,000/- respectively and also by reducing the penalty imposed to Rs.1,00,000/- and Rs.2,50,000/- respectively. It is this order that has been appealed before us.

5. Heard Shri N. Viswanathan, Ld. Advocate for the appellant and Shri Harendra Singh Pal, Ld. Assistant Commissioner. The only issue that arises for our consideration is: whether the adjudicating authority is justified in determining the value of the used imported goods?

6.1 Facts are not in dispute; the only dispute is based on the Inspection Report of the Charted Engineer. We have perused the Inspection Report filed by the Chartered Engineer which is placed on record. They said Chartered Engineer has not disputed that the goods in question were in fact used goods. At paragraph 2.6 of his report, the said engineer is giving an estimated new equipment value at the YOM; other than this, the said engineer has not considered any other similar goods which were imported at about the same time/date.

6.2 Moreover, as observed by us in the above paragraph, he has given an estimated value of new equipment, which is not comparable since, admittedly, the imported goods were used goods/equipment and not new equipment, as observed in the Inspection Report. Hence, the Inspection Report does not inspire any confidence as regards the valuation is concerned and hence the reliance placed on the same is not the correct position. Hence, the lower authority has clearly erred in solely relying on the said inspection report, which is of no evidentiary value.

7. In view of the above, we are constrained to ignore the said report, and consequently, the re-valuation as well, which is solely based on the said report. In that view of the matter, we set aside the impugned order and allow the appeals.

(Order pronounced in the open court on **13.12.2023**)

Sd/-	Sd/-
(M. AJIT KUMAR)	**(P. DINESHA)**
MEMBER (TECHNICAL)	MEMBER (JUDICIAL)

Sdd