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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066
CUSTOMS APPEAL BRANCH

Dated: 09/10/2014

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. C/A/53805/2014-CU[DB] dated 24/09/2014

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 129-A(4) of the **Customs Act, 1962.**

Asstt. Registrar(CUSTOMS Appeal Branch)

Application	Appeal	Name and Address of Appellant
1	C/653/2009	**MLA METALS** M-35, Industrial Area, Jalandhar.
		Name and Address of Respondent
2		**C.C. (ICD) NEW DELHI** ICD, Tughlakabad, New Delhi 110020.

Copy To
3Advocate(s) / Consultant(s):

Piyush Kumar,Adv
B-25, Lajpat Nagar - III,
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Delhi

4 Bar Association, CESTAT, Delhi

5 Director Publications, Customs, Excise. I.P. Estate, Delhi

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15

10 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

11 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

12 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

13 C.D.R. 14 Office Copy 15 Guard File

Asstt. Registrar(CUSTOMS Appeal Branch)

IN THE CUSPTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing/ Decision:24.09.2014

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 26 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 26 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
3	Whether their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

Customs Appeal No.C/653 of 2009-CU(DB)

[(Arising out of Order-in-Original No.67/2009 dated 28.08.2009 passed by the Commissioner of Customs, New Delhi.]

M/s.MLA Metals — Appellants

Vs.

CC, New Delhi — Respondent

Appearance:
M/s.Reena Rawat, Advocate for the appellant.
Shri Amresh Jain, AR for the respondent.

Coram:
Hon'ble Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Rakesh Kumar, Technical Member

Final Order No. 53805/2014 Dated24.09.2014

Per Archana Wadhwa:

The dispute in the present appeal relates to the assessable value of the Ball Valve (Brass Bib Clock), imported by the appellant, who filed a bill of entry dated 3.6.2009, by declaring the value as 0.16 US$ per piece. The total value of the consignment was declared as Rs.7,33,812.67.

2. Admittedly, the goods were unbranded and assorted goods and as observed by the adjudicating authority himself, the comparison with identical and similar goods was not feasible. Accordingly, the Revenue got the consignment examined by one Govt. Register Valuer and Chartered Accountant, who, opined the value of the consignment as Rs.44,76,000/-. The said opinion was based upon the detailed analysis of the valuation of the goods on the basis of cost of material, manufacturing expenses and other relevant factors.

3. Based upon the Chartered Accountant's certificate, the adjudicating authority enhanced the value and consequently, determined the differential duty along with interest and imposition of penalty etc., and the said goods were also confiscated with redemption fine of Rs.8 Lakhs.

4. On going through the impugned order, we find that there is virtually no evidence on record to indicate that the transaction value of the imported goods is not correct. Revenue has not bothered to collect any evidence to first reject the transaction value. In fact, the adjudicating authority has not even doubted the transaction value and has simplicitor adopted the assessable value, as opined by the Chartered Accountant.

5. We also find that the supplier of the goods has given a certificate saying that the goods were manufactured at their factory for various other customers, who did not take delivery and the same were sold as stock lot on " as is where is" terms without any guarantee. In such a scenario, the transaction value as reflected in the invoice issued by the foreign supplier has to be considered as the correct assessable value when Revenue has not produced any

evidence to rebut the same. Accordingly, we set aside the impugned order and allow the appeal with consequential relief to the appellant.

29/9/14
(Archana Wadhwa)
Member (Judicial)

29/9/14
(Rakesh Kumar)
Member (Technical)

Ckp.