IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. IV

Customs Appeal No. 53290 of 2015

[Arising out of Order-In-Appeal No. CC(A)/CUS/D II/ICD/ 643 to 645 /2015 dated 18.6.2015 passed by Commissioner of Customs (Appeals), New Delhi]

Commissioner of Customs **Appellants**
New Delhi

Vs.

M/s. Khushi Time Impex Pvt Ltd. **Respondent**

Appearance:
Shri K Poddar, DR for the Appellants
None for the Respondent

CORAM:
Hon'ble Ms Archana Wadhwa, Member (Judicial)
Hon'ble Mr. V Padmanabhan, Member (Technical)

Date of Hearing : 10.11.2016
Date of Decision: 09.01.2017

FINAL ORDER NO . 50181 /2017

Per Archana Wadhwa (for the Bench):

Being aggrieved with the order passed by Commissioner (Appeals), Revenue has filed the present appeal.

2. We have heard Shri K Poddar, learned DR appearing for the Revenue and nobody appeared for the respondent.

3. After going through the impugned order, we find that the disputes in the present appeal relates to the valuation of sanitary ware and bathroom fittings. The appellant filed Bill of Entry dated 14.2.2012 and the Revenue by entertaining a belief that the same were undervalued, conducted investigations as also search of the appellants office premises and godown premises. The goods available at the both premises were also detained for further investigation.

4. Market inquiries were conducted from two dealers M/s. Shree Shyam Sanitation and M/s. Sai Bath & Kitchen Gallery and based upon the same, it was alleged that all the imports made by the appellant during the last one year by way of 30 BE were undervalued. Accordingly, differential duty of Rs.16,49,088/- was found to have been evaded, which the appellant deposited on various dates, even prior to the issuance of show cause notice.

5. In view of the above background, the show cause notice dated 17.8.2012 was issued proposing to confirm the demand and imposition of penalties, resulting in passing of the order by the original adjudicating authority.

6. On appeal, Commissioner (Appeals) observed that the entire case of the Revenue was based upon the market inquiry,

the transaction value has not been rejected on the ground that there is any evidence that some additional amounts stand remitted to the foreign exporter. He also observed that the lower authorities have not decided the assessable value sequentially in terms of Valuation Rules. Accordingly, we set aside the order.

7. We note that apart from the market inquiries there is no other evidence on record disapproving the transaction value. It is well settled law that such market inquiries cannot be made the basis for enhancing the assessable value. As such, we are of the view that impugned order of Commissioner (Appeals) calls for no interference.

8. Accordingly, appeal filed by the Revenue is rejected.

(pronounced in the open court on 09.01.2017)

(Archana Wadhwa)
Member(Judicial)

(V. Padmanabhan)
Member(Technical)

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