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

Appeal No. C/53248/2014-CU [DB]

[Arising out of the common Order-In-Original No. 371/2014 dated 15.02.2014 passed by Com. of Customs(I&G), New Custom House, New Delhi.]

C.C. New Delhi **…Appellant**

Vs.

M/s Eltek SGS Pvt. Ltd. **…Respondent**

Appearance:
Sh. R.K. Majhi, Ld. AR for the appellant
Sh. Deepak Saneja, Ld. Advocate for the respondent

CORAM:
Hon'ble Justice Mr. Dr. Satish Chandra, President
Hon'ble Mr. Ashok K. Arya, Member (Technical)

Date of Hearing.02.01.2017
Date of decision.31.01.2017

Final Order No. 50548/2017

Per Ashok K. Arya:

1. The present appeal is filed by the Department against the Order-in-Appeal No. 371/2014 dated 05.02.2014. Where he has reversed the order in original dated 15.02.2014.

2. The Deputy Commissioner in the order-in-original dated 15.02.2014 *inter alia* holds that the invoice values of the goods imported by the respondent namely M/s Eltek SGS Pvt Ltd. from the foreign suppliers are not influenced by their relationship. Being aggrieved, the Department has approached the Tribunal by filing present appeal.

3. The Revenue has been represented by the Ld. AR, Shri R.K. Majhi and the Respondent namely, M/s Eltek SGS Pvt Ltd. has been represented by the Ld. Advocate, Shri Deepak Saneja.

4. The Revenue's main ground of appeal is that lower authorities relied heavily on the declaration given by the foreign supplier and did not ask for any corroboratory evidence for verification of the declaration given by the foreign supplier.

5. The Ld. Advocate for the respondent based on the written submissions *inter alia* submits as under:

i. The foreign suppliers certified that the price of goods charged by them from the Respondent is as per their group pricing policy without offering any discount.

ii. SVB officer passed SVB order after considering all the information and certificates filed by the Respondent and certificates of foreign supplier. SVB officer appreciated the fact that foreign suppliers have a price list and they supply the goods to the Respondent based on such price list. Further, there is no discount given by the foreign suppliers to the Respondent.

iii. The Respondent places reliance on the case of *Sthal India Pvt. Ltd. v. CC*, 2005 (184) ELT 408 (Tri. Chennai). In this case, Tribunal held that where identical / similar goods are supplied at same price to other overseas subsidiaries of supplier, transaction value of imported goods cannot be rejected.

iv. In the case of *Euchner India Pvt. Ltd. v. CC (Imports)*, 2014 (305) ELT 154 (Tri.- Mumbai), Tribunal held that when the foreign supplier has uniform pricing policy across the globe, transaction value declared by importer should be accepted.

6. After careful consideration of the facts of the case, the submissions of both the sides and the case laws cited, it appears that the order of the Commissioner is based on sufficient evidences and clear reasoning. The Revenue has failed to submit any evidence to controvert the findings of the Commissioner (Appeals) that the invoice values for the import goods in the present case are influenced by the relationship between the importer and the supplier.

6.1 CESTAT Chennai in the case of *Sthal Intia Pvt Ltd.* and CESTAT Mumbai in the case of *Eucher India Pvt Ltd*. (supra) *inter alia* hold that transaction value of the imported goods is not to be rejected when on record, the transaction between the importer and the supplier is at arm's length and relationship has not influenced the invoice value or the price of the goods.

7. In the instant case, the Department has not brought any evidence to prove that the Transaction in question was influenced due to relationship between the parties.

8. Hence, we find no reason to interfere with the impugned order which is hereby sustained alongwith the reasons mentioned therein.

9. In the result, the appeal filed by the Department is dismissed.

[Pronounced in open Court on 31.01.2017]

(Justice (Dr.) Satish Chandra)
President

(Ashok K. Arya)
Member (Technical)

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