IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing: 3.1.2017
Date of Pronouncement: 03.02.2017

Appeal No. C/53247/2014-CU.(DB)

(Arising out of Order-in-Appeal No. CC(A)Cus/D-I/I&G/376/2014 dated 7.3.2014 passed by the Commissioner of Customs (I&G), New Delhi)

CC, New Delhi — Appellant

Vs.

M/s Stryker Global Technology Center Pvt. Ltd. — Respondent

Appearance

Shri Amresh jain, D.R. - for the appellant

Shri Rajeev Tuli, Advocate - for the respondent

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

Final Order No. 50638/2017

Per Ashok K. Arya :

The Revenue is in appeal against Order-in-Appeal No. 376/2014 dated 7.3.2014 passed by Commissioner, Central Excise (Appeals), New Delhi. The Commissioner (Appeals) in the impugned order upholds the order in original No. 71/2012 dated 18.1.2013 passed by the Deputy Commissioner of Customs (SVB), New Customs House, New Delhi where it was held that the prices of the goods imported by the importer from the foreign supplier are not influenced by their relationship, and declared invoice values for the import goods received from foreign supplier(s) by the importer, respondent may be accepted as transaction value.

2. The Revenue has been represented by ld. AR Shri Amresh Jain and the respondent viz. M/s Stryker Global has been represented by Shri Rajeev Tuli, ld. Advocate.

3. Ld. DR based on the appeal memorandum, *inter alia* mainly submits that the lower Revenue authorities have relied heavily on the declaration given by the foreign supplier, who is related to the Indian importer and did not ask for any other corroborative evidence for verification of the declaration given by the related foreign supplier.

4. The ld. Advocate representing the respondent based on the written submissions, *inter alia,* mainly submits as follows :

(i) No payments are made by their company on account of royalty, license fee or any other charges to the foreign suppliers. Further, no amount in the form of agency commission, overriding commission or any other remuneration is received by the respondent either from the foreign suppliers or from other importers in India; that no expenses have been incurred by the respondent on behalf of, by any understanding or agreement with, or under instructions from the foreign suppliers e.g. advertising, propaganda expenses or any other expenses for the promotion of sales of the impugned goods.

(ii) The importer submitted an affidavit affirming that the pricing pattern and the invoicing method of their suppliers from all Stryker entities remain unchanged and the invoicing is done on the transfer price basis;

(iii) The transactions between the importer and the foreign suppliers are not influenced by their relationship.

5. After careful consideration of the facts and the submissions of both sides, it appears that the Revenue has not been able to submit any substantial evidence to controvert the findings given in the impugned order. The facts on record do not in any way indicate that the relationship between the importer and foreign supplier has influenced the value of the import goods declared by the respondent importer to the Customs. In the absence of any contrary evidence, the Revenue's appeal has no force and cannot be put to further examination. Consequently, the Revenue's appeal is without merits and deserves to be dismissed.

6. In the light of above observation, the impugned order sustains and the appeal filed by the Department is hereby dismissed.

(Pronounced in Court on 03.02.2017)

(Justice Dr. Satish Chandra) President	(Ashok K. Arya) Member (Technical)

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