CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Customs Appeal No. 52187of 2016

(Arising out of order-in-appeal No. CC(A)CUS/D-II/ICD TKD (Import)/353-354/2016 dated 25.04.2016 passed by the Commissioner of Customs (Appeals), New Delhi)

DATE OF HEARING : 02.02.2017
DATE OF DECISION : 09.02.2017

CC, New Delhi …. **Appellant**
(Rep by Sh. Amresh Jain, DR)

VERSUS

M/s S.R. Polyvinyl Ltd. …. **Respondent**
(On Merits)

CORAM : HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE MR. ASHOK K. ARYA, MEMBER (TECHNICAL)

FINAL ORDER NO. __50718/2017__

PER JUSTICE (Dr) SATISH CHANDRA:

The present appeal is filed by the Department against the order-in-appeal no. CC(A)CUS/D-II/ICD TKD (Import)/353-354/2016 dated 25.04.2016, passed by the Commissioner of Customs (Appeals), New Delhi.

2. Even in the revised list, none appeared on behalf of the assessee-Respondent nor any adjournment application is available on record. The assessee-Respondent vide letter dated 27.01.2017

has made a request that the appeal may be decided on the basis of merit and the documents available on record.

3. The brief facts of the case are that, the assessee-Respondent vide 2 bill of entries dated 11.11.2014 and 20.11.2014 had imported the consignments of "PVC Resin Formolon Off Grade (Paste Grade)" and filed the aforesaid bill of entries by declariang the value as per import invoice @ 825 USD per MT. However, the declared value of impugned goods was enhanced from 825 USD per MT to 1100 USD per MT by the assessing authority. By the impugned order, the enhancement is set aside by the Commissioner (Appeals). Being aggrieved, the Department has filed the present appeal.

4. With this background, we have heard Shri Amresh Jain, learned DR for the Department and perused the records.

5. From the records, it appears that the assessable value was enhanced without properly rejecting the transaction value, which in this case was a manufacturer's invoice. The assessee-Respondent had filed the bill of entries for clearance of "PVC Resin Formolon Off Grade (Paste Grade)" through their authorised representative which was imported from United States of America. The value is enhanced by the assessing authority by 33.33%. Rule 12 of the Customs Valuation Rules, 2007 provides for the rejection of declared value by the importer or his agent on valid grounds. In the instant case, the Commissioner (Appeals) observed that the assessing authority has not provided the reasons/provisions of the Customs Act to the

assessee-Respondent under which the transaction value declared by them was rejected. When it is so, then we find no reason to interfere with the impugned order. The same is hereby sustained along with the reasons mentioned therein.

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

(Pronounced in the open court on 09.02.2017)

(ASHOK K. ARYA)
MEMBER (TECHNICAL)

(JUSTICE Dr. SATISH CHANDRA)
PRESIDENT

Golay