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

Custom Appeal No. C/52322/2014-Cu[DB]
[Arising out of Order-In-Appeal No. CC(A) CUS/30/2014 dated 30.01.2014 passed by Commissioner of Customs (Appeals), New Delhi]

For approval and signature:
Hon'ble Mr. S.K. Mohanty, Member (Judicial)
Hon'ble Mr. Ashok K. Arya, Member (Technical)

M/s.Q.I Press Controls India Pvt. Ltd. ...Appellant

Vs.

C.C., New Delhi …Respondent

Appearance:
Mr. Pradip Sharma, (Advocate) for the Appellant
Mr. Govind Dixit, DR for the Respondent

CORAM:
Hon'ble Mr. S.K. Mohanty, Member (Judicial)
Hon'ble Mr. Ashok K. Arya, Member (Technical)

Date of Hearing.27.10.2016
Date of Decision 20.02.2017

Final Order No. 51885 /2017

Per S.K. Mohanty:

This appeal is directed against the impugned order dated 30.01.2014 passed by the Commissioner of Customs (Appeals), New Delhi.

2. Brief facts of the case are that the appellant had imported parts of Intelligent Register System machines from its related foreign supplier M/s. Q.I.

Press Controls B V, Netherlands. Since the appellant is related to the overseas supplier, the matter was referred to the Special Valuation Branch (SVB) for ascertaining the valuation of goods. On scrutiny of the documents and SVB questionnaire, the Deputy Commissioner of Customs vide order dated 01.09.2009 has held that the appellant and the foreign supplier were related, but the price declared by the appellant in the import invoices were not influenced by the relationship. On expiry of order dated 01.09.2009, the appellant applied to the Customs Department for its renewal and also submitted the relevant documents. The Deputy Commissioner (SVB) examined the documents submitted by the appellant and passed the order dated 20.03.2013, holding that the appellant and the foreign supplier are not related persons in terms of Rule 2(2) of the Valuation Rules, 2007 and the invoice value of goods imported was not influenced by their relationship. Feeling aggrieved with the order dated 20.03.2013, the Department filed appeal before the Commissioner (Appeals), which was disposed of vide impugned order dated 30.01.2014.

In the impugned order the ld. Commissioner (Appeals) has directed the original authority to verify the information required under Rule 3(3)(b) of the Customs Valuation Rules. It has also been held in the said order that the assessment will continue to be provisional at declared prices, till such time. Feeling aggrieved with the impugned order, the appellant has preferred the present appeal before the Tribunal.

3. Heard both sides and perused the records.

4. We find from the impugned order in paragraph 4 that the appellant has specifically sated before the Commissioner (Appeals) that the provisions of Rule 3(3)(b) of the Valuation Rules will not be attracted in its case inasmuch as the appellant does not have data in respect of contemporaneous imports of identical/similar goods. Rule 3(3)(b) of Valuation Rule cast the duty upon the importer to demonstrate the other values. Since the appellant submits that it does not have any data in respect of import value or selling prices of contemporaneous imports of identical/similar goods, the appeal of the appellant should have been decided by the Commissioner

(Appeals) on the basis of the order dated 20.03.2013 passed by the Deputy Commissioner (SVB), holding that the invoice value of goods imported by the appellant were not influenced by their relationship with the foreign supplier. Thus, remanding the matter to the original authority for verification of the data in terms of rule 3(3)(b) of Customs Valuation Rules is not proper and justified in view of the fact that the information are not available with the appellant.

6. In the light of above discussions, the impugned order is set aside and the appeal allowed.

(Pronounced in the open court on _20.02.2017_)

(Ashok K. Arya)
Member(Technical)

(S. K. Mohanty)
Member (Judicial)

Sakshi