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

Date of Hearing: 26.10.2016
Date of Pronouncement: 23.2.2017

Appeal No. C/142/2011

(Arising out of Order-in-Appeal No. CC(A)/I&G/343/10 dated 30.12.2010 passed by the Commissioner of Customs (Appeals), New Delhi)

CC (I&G), New Delhi — Appellant

Vs.

M/s Panna Lal & Sons — Respondent

Appearance

Shri S.K. Sheoran, D.R. - for the appellant

None - for the respondent

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

Final Order No. 51913/2017

Per Ashok K. Arya :

Revenue is in appeal against the Order-in-Appeal dated 30.10.2010 passed by Commissioner of Customs (Appeals), whereunder he set aside the order in original dated 23.10.2010 passed by Additional Commissioner of Customs. The order in original passed by Additional Commissioner of Customs sustained the charges of mis-declaration of value in the case of goods viz. Fancy Glass Beads as declared by the respondent viz. M/s Panna Lal & Sons in the bill of entry.

2. The Revenue has been represented by ld. AR, Shri S.K. Sheoran and there is none present for the respondent – M/s Panna Lal & Sons.

3. The brief facts of the case are that the importer – respondent M/s Panna Lal & sons imported the goods viz. Fancy Glass Beads as declared in the import documents. The Customs referred the matter to SIIB investigation. The respondent waived the issue of show cause notice. In the adjudication by the Additional Commissioner vide order in original dated 23.10.2010 the goods were found to be 'Glass Chatons/stones' and it was held that the goods were undervalued, when compared with the imports through Mumbai Customs and NIDB data. The order in original confiscated the goods with the option of redemption on payment of redemption fine of Rs. 8 lakhs under Section 125(1) of the Customs Act, 1962 and confirmed differential duty of Rs.2,68,621/- along with interest and also imposed a penalty of Rs. 3 lakhs on the respondent importer.

3.1 The respondent filed appeal against the order in original passed by Additional Commissioner before Commissioner of Customs (Appeals), who set aside the said order in original inter alia saying that the transaction value cannot be discarded without clear and cogent evidence with regard to quantity, quality, country of origin and place and time of import. The Commissioner (Appeals) held that there has is no case of mis-declaration against the respondent, M/s Panna Lal & Sons. Hence, this appeal by the Revenue.

4. The ld. AR for the Revenue reiterated the contents of the appeal memorandum and the order in original passed by Additional Commissioner.

5. After careful consideration of the facts on record and the submissions of the Revenue, we find that the impugned order-in-appeal has dealt with the definition of glass chatons/stones and other facts of the case and held that the subject goods are to be classified as glass beads under Customs Tariff Heading 7018020. The Revenue has not given any substantial material and evidence to differ from the finding given by the Commissioner (Appeals) in the impugned order in appeal.

6. The impugned order in appeal further, analyses the valuation aspect in detail and conclude that the department did not produce any evidence to reject the transaction value in the present case. The impugned order arrives at the finding that the order passed by Additional Commissioner enhancing the assessable value is not fair and legal and transaction value declared by the importer is true transaction value.

7. Further, the department has not given any further evidence to substantiate that the respondent mis-declared the description and value of the goods. There is no convincing ground given by the Revenue to reject the transaction value declared in the import documents by the respondent importer. Consequently, the impugned order in appeal is sustained for the reasons mentioned therein and the appeal filed by Revenue is dismissed.

(Pronounced in Court on 23.2.2017)

(S.K. Mohanty)
Member (Judicial)

(Ashok K. Arya)
Member (Technical)

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