

CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EAST REGIONAL BENCH : KOLKATA

Customs Appeal No. 107/11

(Arising out of the Order-in-Appeal No. KOL/CUS/CKP/333/2010 dated-16/12/2010 passed by the Commissioner of Customs (Appeals), Kolkata)

Commr. of Customs (Port) Kolkata

...APPELLANT(S)

VERSUS

Good Deal Impex Pvt. Ltd.

...RESPONDENT(S)

APPEARANCE

Sri S. Guha, A.C (A.R)

FOR APPELLANT(S)

Sri K.K. Sanyal, Consultant

FOR THE RESPONDENT(S)

CORAM:

JUSTICE DR. SATISH CHANDRA, HON'BLE PRESIDENT
SHRI C.J. MATHEW, HON'BLE TECHNICAL MEMBER

DATE OF HEARING & DECISION: 23/03/2018

FINAL ORDER NO. : FO/75816/2018

The present appeal is filed by the Department against Order-in-Appeal No. KOL/CUS/CKP/333/2010 dated-16/12/2010 passed by the Commissioner of Customs (Appeals), Kolkata.

2. Brief facts of the case are that the respondent had imported the consignment of 21880 pcs. of carbide tips in the month of August, 2010

directly from China. The respondent has declared the value which was enhanced by the Department but the Commissioner (Appeal) has accepted the value declared by the respondents.

2. Being aggrieved, the Department has filed the present appeal.

3. With this background, we heard Shri Sri S. Guha and Sri K.K. Sanyal, Counsels for the parties.

4. After hearing both the parties and on perusal of the case records, it appears that the declared value of the goods is based on the unit price per tip mentioned in the invoice and there are different price for different types of tips. Thus the enhancement in value cannot be made which would be on weight basis. Unless the department adduces evidence of a contemporaneous imports price from a manufacturer of carbide tips for goods of the same specifications, the enhancement in value cannot be made in their case.

5. In the instant case, the invoices is based on specification of the tips. Therefore, the DOV data cannot be confirmed the basis of the value of authorised carbon tips and all different specifications imported by the respondent as per the ratio laid down by the Tribunal in the case of M/s. Sai Impex Vs. Collector of Customs [1992 (62) ELT (616)-Tri].

6. In the instant case, the word 'imported directly' from the importer and the manufacturer for this found to be genuine. No material was brought on record to deny the genuineness of the invoices. The Hon'ble Supreme Court upheld the decision of the Tribunal as reported in 1996 (84) ELT A47 (SC).

7. In the light of the above discussion and considering the facts and circumstances of the case, we do not find any reason to interfere with the same order and the same is sustained.

8. In the result appeal filed by the Department is dismissed.

(Dictated and pronounced in the open Court)

Sd/-

(C.J. MATHEW)
TECHNICAL MEMBER

Sd/-

(DR. SATISH CHANDRA)
PRESIDENT

k.b/-