IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH: KOLKATA

Appeal No. C/278/2009

(Arising out of Order-in-Appeal No.Kol/Cus/CKP/116/2009 dated 18.03.2009 passed by the Commissioner of Customs (Appeals), Kolkata)

Commissioner of Customs (Port), Kolkata

Applicant (s)/Appellant (s)

Vs.

M/s. Dharampal Satyapal Ltd.

Respondent (s)

Appearance:
Shri S.N.Mitra, AC(AR) for the Appellant (s)
Shri T.R.Rustagi, Advocate for the Respondent (s)

CORAM:
Hon'ble SHRI JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
Hon'ble SHRI V.Padmanabhan, Member (Technical)

Date of Hearing/Decision:- 02.05.2018

ORDER NO. FO/76000/2018

Per Dr. Satish Chandra

1. The present appeal has been filed against the Order-in-Appeal No.Kol/Cus/CKP/116/2009 dated 18.03.2009.

2. The brief facts of the case are that the respondent has imported machinery under 'project import' from M/s. Processing Engineering, Italy for setting up of a plant for extrusion of heat resistant latex rubber thread. As per the agreement dated 12.06.2004, the agreement was on a trunkey basis. After setting up of the plant the respondent imported designs and engineering which were meant for indigenously procured goods. Such drawings were provided by the supplier along with imported goods. Department was of the view that the amount paid towards such designs and engineering is required to be included in the value of the machines imported and export duty is required to be paid. But vide the impugned order the Commissioner (Appeals) has set aside such demand and Revenue is in appeal against such finding.

3. We heard ld.DR who reiterates the findings of the Original Authority. He submits that fee paid is includable in terms of Rule 9(1) (e) of the Customs Valuation Rules, 1988.

4. Ld. Counsel for the respondent submits that the payment made to the suppliers towards design and enginering is nothing to do with machinery imported under project import. Since the payment is nothing to do with the imported goods, he submits that there is no justification in including such amount.

5. With this background we heard both sides and perused the appeal record.

6. The dispute is that the payment made by way of fee of an amount of Euro 1 lakh which was paid to the supplier of the machinery towards design and engineering which is to be used for indigenously procured goods. After perusal of records we are on the conclusion that such fee paid has no connection with the machinery imported under project import and hence there is no justification for including such amount under Rule 9 (1) (e) of the Customs valuation Rules, 1988. Hence, we decline to interfere with the impugned order and the same is hereby sustained alongwith reasons mentioned therein.

7. In the result, the appeal is dismissed.

(Dictated and pronounced in the Open Court)

S/d.
(Justice Dr. Satish Chandra)
President

S/d.
(V.Padmanabhan)
MEMBER (Technical)

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