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

Cus.Appeal No.43/08

(Arising out of Order-in-Appeal No.24/Cus(A)/GHY/07 dated 21.11.2007 passed by the Commissioner of Customs & Central Excise, (Appeals), Guwahati)

M/s Agarwal Glass Center

Applicant (s)/Appellant (s)

Vs.

Commr. of Customs (Prev.), Shillong

Respondent (s)

Appearance:

Shri D. Sahu, Adv. for the Appellant (s)
Shri S. N. Naskar, Asstt. Commr. (A.R.) for the Revenue(s)

CORAM:
HON'BLE SHRI JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE SHRI V. PADMANABHAN, TECHNICAL MEMBER

Date of Hearing : 02.05.2018
Date of Decision : 02.05.2018

ORDER NO- **FO/C/A/75904/2018**

Per Dr. Satish Chandra.

The present appeal is filed by the appellant against the impugned Order-in-Appeal No.24/Cus(A)/GHY/07 dated 21.11.2007 passed by the Commissioner of Customs & Central Excise, (Appeals), Guwahati.

2.1 Brief facts of the case are that the appellant is a proprietorship concern, who had imported float glass sheets of various sizes from Bangladesh. At the time of import, the assessment was provisionally made and the importer paid the duty at the declared value and cleared the goods.

2.2 Subsequently, the assessments were taken up for finalization by the original authority and on enhanced value, the importer paid the differential duty and got assessment finalized. The Department did not challenge such assessment order.

2.3 Consequent to the finalization, the Department issued show-cause notice dated 8th February, 2007, proposing re-opening the assessment and enhanced the value finalized on the basis of another consignment i.e. float glass imported by Dhrubajyoti Shil of Agartala and difference of duty of Rs.2,17,146/- was demanded. No penalty was levied. Being aggrieved, the appellant has filed the present appeal.

3. With this background, we have heard Shri D.Sahu, ld.Counsel for the appellant and Shri N.S.Naskar, ld.A.R. for the Revenue.

4. After hearing both sides and on perusal of record, it appears that Dhrubajyoti Shil had imported the consignment from the same supplier, but the facts remains in the appellant's case that the assessment was made, which was not challenged. We find that the Revenue has not made any allegation in respect of willful suppression on the part of the importer, but has sought to re-open their assessment and enhanced the value only on the basis of import by the another party. We find no justification in such re-opening of finalization of the assessment. Accordingly, the impugned order is set aside and the appeal is allowed.

(Dictated and pronounced in the open court.)

Sd/
(V.Padmanabhan)
Member (Technical)

Sd/
(Justice Dr. Satish Chandra)
President

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