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

Appeal Nos. C/125/2009 & C/152/2009

(Arising out of Order-in-Appeal No.Kol/Cus/CKP/394/2008 dated 17.11.2008 and KOL/Cus/CKP/263-264/2008 dated 29.08.2008 all passed by the Commissioner (Appeals), Customs, Kolkata)

Commissioner of Customs (Port), Kolkata

Applicant (s)/Appellant (s)

Vs.

M/s. Sewing Machineries & Spares

Respondent (s)

Appearance:

Shri S.N.Mitra, AC(AR) for the Appellant (s)
None for the Respondent (s)

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

Date of Hearing/Decision:- 01.05.2018

ORDER NO. FO/76030-31/2018

Per Dr. Satish Chandra

1. Both the appeals have been filed by the department against the Order-in-Appeal No.Kol/Cus/CKP/394/2008 dated 17.11.2008 and KOL/Cus/CKP/263-264/2008 dated 29.08.2008.

2. The brief facts of the case are that the appellant had imported metallic yarn of 'Gistata Brand' of Japan origin, but department has enhanced the value.

3. Heard Shri S.N.Mitra, AC(AR) for the department. None appeared for the respondent.

4. After hearing Ld. AR for the department and on perusal of records it appears that Commissioner (Appeals) in his order has observed as under:

> *"5. I have gone through the grounds of appeal, submissions made at the time of hearing and all other evidence on record. On going though the assessment order, it is seen that the value of the imported goods, namely, metallic yarn has been increased from Japanese Yen 668 per Kg. to Japanese Yen 963 per Kg. The lower authority has not provided any details of the contemporaneous imports, of such goods, in or around the same time, which would indicate that these are goods which have been imported at higher prices during the said period. Also no test samples were drawn to determine whether the imported goods contained gold or jewellery and which warranted higher valuation. In the absence of these, there is no warrant for the Department to reject the declared value of the goods. In view of this, the enhancement made by the lower authority is set aside and the goods are to be assessed to duty at the declared price. Further, the license if debited for higher value has to be recredited for the differential amount which represents the quantum of loading of the value of the goods."*

5. It appears that the department has enhanced the value without any basis/evidence. When it is so, we decline to interfere with the impugned order and the same is sustained with the reasons mentioned therein.

6. In the result, both the appeals are 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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