

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA**

EASTERN ZONAL BENCH: KOLKATA

Customs Appeal No. C/33/2009

(Arising out of Order-in-Appeal No.KOL/CUS/CKP/219/2008 dated 19.08.2008 passed by the Commissioner of Customs (Appeals), Kolkata)

Commissioner of Customs (Port), Kolkata

Applicant (s)/Appellant (s)

Vs.

Sri Rakesh Krishen Mishra

Respondent (s)

Appearance:

Shri S.K. Naskar, A.C. (AR) for the Appellant (s)

NONE for the Respondent (s)

CORAM:

Hon'ble Shri P.K.Choudhary, Member (Judicial)
Shri Bijay Kumar, Hon'ble Technical Member

Date of Hearing/Decision:- 15.05.2018

ORDER NO.FO/76073/2018

Per **Shri Bijay Kumar**

The present appeal has been filed by the Department against Order-in-Appeal No.KOL/CUS/CKP/219/2008 dated 19.08.2008 passed by the Commissioner of Customs (Appeals), Kolkata.

2. The issue in brief is regarding the enhancement of value of the imported Brand New Mercedes Benz S500 RHD,V8, Petrol (5.0L) Chassis No. WDD221171-2A-025016 as per the NIDB data. The Department has

enhanced the price from Rs.37,97,507.50 to Rs.45,93,641/-. However, the record of the same is not available with us.

3. Commissioner (Appeal) on appeal, has set aside the order-in-original on the ground that this is the violation of principle of natural justice as neither hearing nor adjudication order has been passed by the adjudicating authority in this case.

4. Further, apparently it appears that the value in difference is not more than Rs.10.00 Lakhs which is also hit by National Litigation Policy issued by the CBEC Circular bearing No.390/Misc./163/2010-JC (8-2011) dated 17.08.2011.

5. Accordingly, we dismiss the appeal.

(Dictated and Pronounced in the Open Court)

Sd/- 15/05/2018
(P.K.Choudhary)
MEMBER(JUDICIAL)

Sd/- 15/05/2018
(Bijay Kumar)
MEMBER(TECHNICAL)

k.b/-