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

EASTERN ZONAL BENCH: KOLKATA

Customs Appeal No. 22/2009

(Arising out of Order-in-Appeal No.KOL/CUS/CKP/353/2008 dated 27.10.2008 passed by the Commissioner of Customs (Appeals), Kolkata)

Commissioner of Customs (Prev.), W.B., Kolkata

Applicant (s)/Appellant (s)

Vs.

M/s. Karwa Exports Pvt. Ltd.

Respondent (s)

Appearance:

Shri S. Guha, 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:- 17.05.2018

ORDER NO. F/O 76082/18

Per **Shri Bijay Kumar**

The present appeal has been filed by the Department against the Order-in-Appeal No.KOL/CUS/CKP/353/2008 dated 27.10.2008 passed by the ld.Commissioner of Customs (Appeals), Kolkata wherein, he has dismissed the departmental appeal.

2. The issue in brief is regarding interpretation of Notification No. 73/95-CUS (NT) dated-07/12/1995, which is Customs Tariff (Determination of origin of goods under the Agreement on SAARC Preferential Trading Agreement) Rules, 1995. As per the SAPTA agreement, the differential duty is leviable for the goods imported by the contracting parties as per the terms and condition contained in the aforesaid notification. Among other thing, the notification prescribes the value addition to the extent of ratio prescribed in the notification itself. It appears that the importer has not reflected the value addition to the imported goods i.e. “Processed Cloves” in their import invoice. In addition to above, there was difference in the declared value and the assessed value. The assessment was made on a provisional basis. The Ld. Adjudicating Authority and appellate authority has not decided the issue, which is contained at para (d) of the show cause notice dated-6/05/2008. In the impugned order, the Commissioner (Appeal) held that the adjudicating authority has correctly not ignored the value addition as per the SAPTA agreement, as the same was not the issue before him as per the Show Cause Notice.

3. Ld. D.R. takes us through the show cause notice and impugned order wherein it is mentioned that the value addition aspect was required to be looked into in terms of the notification referred hereinabove.

4. None appeared from the respondent side.

5. After going through the submissions made by the D.R. and on perusal of the case records, we feel that the value addition aspect for the

Imported consignment availing the notification as referred above is very crucial. We, therefore, remand the matter to the original adjudicating authority to look into the value addition aspect as claimed by the department and finalise the assessment thereafter afresh.

(Operative part of the order already pronounced in the Court)

Sd/-17/5/2018

(P.K.Choudhary)
MEMBER(JUDICIAL)

Sd/- 17/5/2018

(Bijay Kumar)
MEMBER(TECHNICAL)

k.b/-