

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

REGIONAL BENCH - COURT NO.1

Customs Appeal No.75455 of 2015

(Arising out of Order-in-Appeal No.CUS/RPM/004/2015 dated 09.02.2015 passed by Commissioner of Customs (Appeal), Kolkata.)

M/s. Enterprise International Limited

(CK-13, Satti Chautara Chowk, Varanasi, U.P.-221010 having its registered office at 3, Woodburn Park, Kolkata-700020.)

...Appellant

VERSUS

Commissioner of Customs (Port), Kolkata

(15/1, Strand Road, Custom House, Kolkata-700001.)

.....Respondent

APPEARANCE

Shri Sudhir Mehta, Advocate for the Appellant (s)

Shri S.Debnath, Authorized Representative for the Revenue

**CORAM: HON'BLE SHRI ASHOK JINDAL, MEMBER(JUDICIAL)
HON'BLE SHRI RAJEEV TANDON, MEMBER(TECHNICAL)**

FINAL ORDER NO. 77463/2023

DATE OF HEARING : 7 November 2023

DATE OF DECISION : 7 November 2023

Per : ASHOK JINDAL :

The appellant is in appeal against the impugned order wherein the value of the goods imported has been enhanced.

2. The facts of the case are that the appellant filed four Bills of Entry dated 26.03.2014 declaring the goods as "Mulberry Raw Silk in hanks

20/22 D 3A grade and above” and declared the value of USD 38/Kg (CIF) in each case.

3. The revenue is of the view that in March 2012, the import of “Mulberry Raw Silk in hanks 20/22 D 3A/4A grade and above” were imported during the impugned period at Chennai port where the value has been declared as 46, 48 \$ per Kg., therefore, the proceedings were initiated against the appellant for enhancement of the declared value of the impugned imported goods. The adjudicating authority enhanced the value on the basis of contemporaneous import and demand of duty was raised against the appellant. The said order was challenged before the Ld.Commissioner(Appeals), who affirmed the order of the adjudicating authority, although the appellant relied on the identical goods imported during the period January to February 2014 declaring the value at US \$ 38 per Kg.. Aggrieved from the said order, the appellant is before us.

4. The Ld.Counsel for the appellant submits that the adjudicating authority has relied on the imports at Chennai Port during the same period, but it is not described whether those goods are identical or similar goods. Further, prior to import of these impugned goods within six months, the goods have been cleared at a value of US \$ 38 per Kg. at Calcutta Port, therefore, the said value is the correct value, which is to be taken into consideration.

5. On the other hand, the Ld.AR for the department supported the impugned order.

6. We find that description declared by the appellant as “Mulberry Raw Silk in hanks 20/22 D 3A/4A grade and above”, whereas the description of the Bill of Entry which has been relied upon by the adjudicating authority is “Mulberry Raw Silk yarn 20/22 D 3A/4A grade and above”. We find that the description of the goods is altogether different as the description declared by the appellant is Silk in hanks whereas the adjudicating authority relied on Silk yarn, therefore, the goods imported by the appellant are not identical or similar goods as relied upon by the adjudicating authority.

7. In that circumstances, we do not accept the value enhanced by the adjudicating authority in the absence of any other supporting evidence. In that circumstances, we set aside the impugned order and hold the value declared by the appellant as the correct value of the impugned imported goods. Therefore, we set aside the impugned order and allow the appeal with consequential relief, if any.

(Operative part of the order was pronounced in the open Court.)

Sd/
(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/
(RAJEEV TANDON)
MEMBER (TECHNICAL)

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