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

REGIONAL BENCH - COURT NO.1

Customs Appeal No.76071 of 2018

(Arising out of Order-in-Appeal No.KOL/CUS(PORT)/AA/123-125/2018 dated 09.01.2018 passed by Commissioner of Customs (Appeals), Kolkata.)

Commissioner of Customs (Port), Kolkata
(15/1, Strand Road, Custom House, Kolkata-700001.)

...Appellant

VERSUS

M/s. Agarwal Impex

.....Respondent

(9, A.J.C. Bose Road, Ideal Centre, 5^{th} Floor, Kolkata-700017.)

APPEARANCE

Shri A.K.Choudhary, Authorized Representative for the Revenue
NONE for the Respondent (s)

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

FINAL ORDER NO. 77466/2023

DATE OF HEARING : 9 November 2023
DATE OF DECISION : 9 November 2023

Per : ASHOK JINDAL :

Revenue is in appeal against the impugned order, wherein Ld.Commissioner(Appeals) has set aside the order of enhancement of the value of imported goods.

2. The facts of the case are that the respondent filed three Bills of Entry declaring the goods as "Garment Accessories – Embroidery Stones". The revenue sought to enhance the value of imported goods initially at the time of clearance. The respondent accepted the enhancement of value and paid duty accordingly. Thereafter as respondent did not receive any order under section 17(5) of the Customs Act, 1962, which should be a speaking order for enhancement

of value of imported goods, the respondent filed appeal before the Ld.Commissioner(Appeals), who after examining the fact that no order under section 17(5) of the Act has been passed for enhancement of the value of the impugned goods, set aside the enhancement of value by the adjudicating authority at the time of clearance of the goods. Against the said order, the revenue is before us.

2. Heard the Ld.AR for the department.

3. Considering the fact that section 17(5) of the Customs Act, 1962 mandates them if any assessment done under section 17(4) of the Customs Act, 1962, the adjudicating authority shall pass a speaking order within 15 (fifteen) days of the order passed under section 17(4) of the Act. As no order has been passed under section 17(5) of the Act, in that circumstances, the order passed under section 17(4) of the Act have no mandate of law.

4. In that circumstances, we do not find any infirmity in the impugned order. The same is upheld.

The appeal filed by the revenue is dismissed.

(Dictated and pronounced in the open Court.)

Sd/
(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/

(RAJEEV TANDON)
MEMBER (TECHNICAL)

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