IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI

APPEAL NO: C/179/2009

[Arising out of Order-in-Appeal No: 362/2008/MCH/A.C./Gr.II/2008 dated 31st December 2008 passed by the Commissioner of Customs (Appeals), Mumbai – I.]

Aakash Stone Industries Ltd … ***Appellant***

versus

Commissioner of Customs (Import)
Mumbai ***…Respondent***

Appearance:

Shri Anil Balani, Advocate for appellant

Shri Atul Sharma, Assistant Commissioner (AR) for respondent

CORAM:

Hon'ble Shri C J Mathew, Member (Technical)
Hon'ble Shri Ajay Sharma, Member (Judicial)

Date of hearing: **09/07/2018**
Date of decision: **30/07/2018**

ORDER NO: A/87002 / 2018

Per: C J Mathew

This appeal of M/s Aakash Stone Industries Ltd against order-in-appeal no. 362/2008/MCH/A.C./Gr.II/2008 dated 31st December 2008 of Commissioner of Customs (Appeals), Mumbai – I challenges the upholding of loading of value by US $ 2 per square meter instead of accepting the declared value of US $ 11 per square meter by the original authority in 18 bills of entry filed for import of 'polished small size cutter marble slabs' in 2002-2003 on the basis of market enquiry.

2. Learned Counsel for appellant points out that the impugned order confirms the revision of value under rule 7(2) of Customs Valuation (Determination of Price of Imported Goods) Rules, 1988 and that the market enquiry, which purportedly led to the revision, was carried out on 27th June 2007 which is beyond the period of six months prescribed in rule 7 of the said Rules.

3. According to the Learned Authorised Representative, it is on record that the importers themselves had furnished a market price which is higher than the price adopted consequent upon market enquiry.

4. It is seen that the imports, though effected in 2002, were sought to be saddled with differential duty of ₹ 18,50,556/- by recourse to a market survey that was conducted on a date not in conformity with the prescription in Customs Valuation (Determination of Price of Imported Goods) Rules, 1988. Accordingly, the enhancement of value does not stand the test of law in consequence of which the impugned order is set aside and the appeal allowed.

(Pronounced in Court on 30/07/2018)

(Ajay Sharma)
Member (Judicial)

(C J Mathew)
Member (Technical)

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