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

APPEAL NO: C/169/2011

[Arising out of Order-in-Appeal No: 05(Gr.VA)/2010(JNCH)/IMP-02 dated 7th January 2011 passed by the Commissioner of Customs (Appeals), Mumbai – II.]

Mittal Graphics … ***Appellant***

versus

Commissioner of Customs (Import)
Nhava Sheva ***…Respondent***

Appearance:

None for appellant

Shri M K Mall, Assistant Commissioner (AR) for respondent

CORAM:

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

Date of hearing: 24/08/2018
Date of decision: 19/09/2018

ORDER NO: _ A/87368 / 2018

Per: C J Mathew

M/s Mittal Graphics had imported one 'four colour ADAST printing machine 745 P YOM 1985' *vide* bill of entry no. 736515/27.10.2009 with the declared value of ₹ 6,08,861/- and as similar imports sourced in the past had been at a higher price, the declared value was found to be unacceptable and the report of a Chartered Engineer determined the assessable value to be ₹ 10,26,453/-. Appellant disputes order-in-appeal no. 05(Gr.VA)/2010 (JNCH)/IMP-02 dated 7th January 2011 of Commissioner of Customs (Appeals), JNCH, Nhava Sheva for confirming the enhancement of the assessable value to ₹ 10,26,453/-, confiscation under section 111 of Customs Act, 1962 with option to redeem the goods on payment of ₹ 1,00,000/-, and imposition of penalty of ₹ 50,000/-. The confirmed differential duty on the enhanced value is ₹ 92,087/- over and above the self-assessed duty of ₹ 1,31,043/-.

2. None appeared for appellant.

3. Learned Authorised Representative points out that the order of the first appellate authority merely confirmed the correctness of the order of the lower authority which, for justifiable reasons, had rejected the declared value and, having tested the applicability of rules 4, 5, 7 and 8 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, was compelled to resort to the residual method under rule 9 of the said rules *i.e.*, the estimated value arrived at by M/s Bureau Veritas as re-computed assessable value.

4. It is seen that the appellant had imported used capital goods and had declared the value as contained in the invoice furnished by

the supplier. Under the provisions of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, the original authority has enhanced the assessable value. We find no flaw in the procedure, or the reasoning, adopted by the original authority and confirmed by the first appellate authority. However, no evidence has been brought on record to show that there was any deliberate act of mis-declaration or that there has been any suppression on the part of the appellant. Accordingly, the confiscation of the goods is set aside. So is the penalty.

5. The appeal is disposed off on the above terms.

(Pronounced in Court on 19/09/2018)

(Ajay Sharma)
Member (Judicial)

(C J Mathew)
Member (Technical)

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