

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI**

REGIONAL BENCH - COURT NO. 01

Customs Miscellaneous Application No. 85471 Of 2022

(on behalf of Appellant)

in

Customs Appeal No. 86093 Of 2021

(Arising out of Order-in-Appeal No. MUM-CUSTOM-AMP-APP-1830 to 1858/2021-21 dated 22.03.2021 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s Cisco Commerce India Private Limited

.....Appellant

Prestige Solitare Level-II No 6 Bruton Road, Bengaluru, Karnataka-560001.

VERSUS

**Commissioner of Customs (Import) –
Mumbai (Air Cargo Import)**

.....Respondent

Air Cargo Complex, Sahar Andheri (E), Mumbai-400099.

WITH

Customs Miscellaneous Application No. 85472 Of 2022

(on behalf of Appellant)

in

Customs Appeal No. 86094 Of 2021

(Arising out of Order-in-Appeal No. MUM-CUSTOM-AMP-APP-1830 to 1858/2021-21 dated 22.03.2021 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s Cisco Commerce India Private Limited

.....Appellant

Prestige Solitare Level-II No 6 Bruton Road, Bengaluru, Karnataka-560001.

VERSUS

**Commissioner of Customs (Import)
– Mumbai (Air Cargo Import)**

.....Respondent

Air Cargo Complex, Sahar Andheri (E), Mumbai-400099.

WITH

Customs Miscellaneous Application No. 85473 Of 2022

(on behalf of Appellant)

in

Customs Appeal No. 86101 Of 2021

(Arising out of Order-in-Appeal No. MUM-CUSTOM-AMP-APP-1830 to 1858/2021-21 dated 22.03.2021 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s Cisco Commerce India Private Limited

.....Appellant

Prestige Solitare Level-II No 6 Bruton Road,
Bengaluru, Karnataka-560001.

VERSUS

**Commissioner of Customs (Import)
– Mumbai (Air Cargo Import)**

.....Respondent

Air Cargo Complex, Sahar Andheri (E), Mumbai-
400099.

WITH

Customs Miscellaneous Application No. 85476 Of 2022

(on behalf of Appellant)

in

Customs Appeal No. 86102 Of 2021

(Arising out of Order-in-Appeal No. MUM-CUSTOM-AMP-APP-1830 to 1858/2021-21 dated 22.03.2021 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s Cisco Commerce India Private Limited

.....Appellant

Prestige Solitare Level-II No 6 Bruton Road,
Bengaluru, Karnataka-560001.

VERSUS

**Commissioner of Customs (Import)
– Mumbai (Air Cargo Import)**

.....Respondent

Air Cargo Complex, Sahar Andheri (E), Mumbai-
400099.

WITH

Customs Miscellaneous Application No. 85475 Of 2022

(on behalf of Appellant)

in

Customs Appeal No. 86103 Of 2021

(Arising out of Order-in-Appeal No. MUM-CUSTOM-AMP-APP-1830 to 1858/2021-21 dated 22.03.2021 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s Cisco Commerce India Private Limited

.....Appellant

Prestige Solitare Level-II No 6 Bruton Road,
Bengaluru, Karnataka-560001.

VERSUS

**Commissioner of Customs (Import)
– Mumbai (Air Cargo Import)**

.....Respondent

Air Cargo Complex, Sahar Andheri (E), Mumbai-
400099.

AND

Customs Miscellaneous Application No. 85474 Of 2022

(on behalf of Appellant)

in

Customs Appeal No. 86106 Of 2021

(Arising out of Order-in-Appeal No. MUM-CUSTOM-AMP-APP-1830 to 1858/2021-21
dated 22.03.2021 passed by Commissioner of Customs (Appeals), Mumbai-III)

M/s Cisco Commerce India Private Limited

.....Appellant

Prestige Solitare Level-II No 6 Bruton Road,
Bengaluru, Karnataka-560001.

VERSUS

**Commissioner of Customs (Import)
– Mumbai (Air Cargo Import)**

.....Respondent

Air Cargo Complex, Sahar Andheri (E), Mumbai-
400099.

Appearance:

Shri Akhilesh Kangsia, Advocate for the Appellant
Shri Sydney D'Silva, Authorized Representative for the Respondent

CORAM:

**HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M. M. PARTHIBAN, MEMBER (TECHNICAL)**

MISCELLANEOUS ORDER NO. M/85366-85371/2023

FINAL ORDER NO. A/86087-86092/2023

Date of Hearing: 05.07.2023

Date of Decision: 05.07.2023

PER : S. K. MOHANTY

Heard both sides and perused the records.

2. Applicant has filed these miscellaneous applications, seeking consideration of additional grounds as a part of the grounds of appeal already annexed to the appeal memorandum filed before the Tribunal. The prayer made by the applicant is considered and accordingly, the additional grounds urged at this moment were considered for disposal of the appeal. Since, the issue lies in a narrow compass, both sides agreed that the matter arising out of impugned order should be remanded to the original authority for passing of appropriate order in terms of sub-section (5) of Section 17 of the Customs Act, 1962.

3. On examination of the case records, we find that the issue involved in the present appeals relate to both classification and valuation of the imported goods. Though, the department has discarded the transaction value i.e., the value declared by the importer-appellant for the purpose of valuation of the imported goods, but no speaking order under sub-section (5) of Section 17 *ibid* has been passed. Since, this statute in very categorical terms provides that in case of non-acceptance of the value declared by the importer, the proper officer has to pass the speaking order, we are of the view that this is a fit case for remanding the matter back to the original authority for compliance of the said statutory provisions.

4. Therefore, we are setting aside the impugned order. The appeal is allowed by way of remand to the original authority for passing of the assessment order in terms of sub-section (5) of Section 17 *ibid*. Needless to say that opportunity of personal hearing should be granted to the appellant before deciding the issue afresh.

5. In the result, the appeals are allowed by way of remand.

(Dictated and pronounced in the open court)

(S. K. Mohanty)
Member(Judicial)

(M. M. Parthiban)
Member (Technical)