# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

**Customs Appeal No. 86781 of 2014**

(Arising out of Order-in-Appeal No. 474 (Gr.VII-B)/2014(JNCH)/EXP-23 dated 13.02.2014 passed by the Commissioner of Customs (Appeals), Mumbai-II)

**M/s Banaras Beads Ltd.** **.... Appellant**
A-1, Industrial Estate,
Varanasi, Uttar Pradesh – 221 106

Versus

**Commissioner of Customs (Export), Nhava Sheva** **.... Respondent**
JNCH, Nhava Sheva, Uran, Raigad – 700 707

Appearance:

Shri J.C. Patel, Advocate for the Appellant

Shri D.S. Mann, Authorized Representative for the Respondent

**CORAM:**

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

**FINAL ORDER NO. A/85359/2025**

Date of Hearing: 16.01.2025
Date of Decision: 16.01.2025

***PER: S.K. MOHANTY***

Briefly stated, the facts of the case are that during the period January, 2013, the appellant had imported 'Glass Beads (Rockiles)' of different varieties and sizes through the port of Nhava Sheva and filed a Bill of Entry (B/E) No. 8986763 dated 09.01.2013 for assessment and clearance of the same. On investigation, the Department had observed that the prices declared in the B/E were in the range of USD 0.62 per kg. to USD 1.880 per kg. Such value declared by the appellant in the B/E was not accepted by the Department and by referring to the value of contemporaneous imports made by some other parties, the Department had assessed the B/E under Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The speaking order passed by the original authority was appealed against by the appellant before the learned Commissioner (Appeals), which was disposed of by him vide the impugned order dated 13.02.2014, in upholding the assessment and rejecting the appeal filed by the appellant. Being dissatisfied with the impugned order dated 13.02.2014 passed by the learned Commissioner of Customs (Appeals), the appellant has filed the present appeal before the Tribunal.

2. Learned Advocate appearing for the appellant submitted that though the Department had referred to the contemporaneous imports in respect of the similar goods imported by some other parties, but copy of the such B/Es indicating the transaction value were not furnished to them for refuting the charges levelled against the appellant, and therefore the assessment order passed by the Department cannot be sustained. Thus, he submitted that there is gross and manifest violation of the principles of natural justice. He further submitted that in an identical case of the same appellant, this Tribunal vide Final Order dated 12.12.2024, has remanded the matter back to the original authority, with the direction for submission of contemporaneous B/Es, which were relied upon for determining the correct value of the imported goods.

3. On the other hand, learned Authorized Representative appearing for the Revenue reiterated the findings recorded in the impugned order.

4. Heard both sides and perused the case records.

5. On examination of the case records, we find that both the authorities below, though, have referred to the contemporaneous B/Es for arriving at the conclusion that the price declared by the appellant is much on the lower side, but copy of the said contemporaneous B/Es were not given to the appellant for submission of their defence reply as to whether, the contemporaneous price relied upon by the Department should be acceptable for the purpose of duty assessment in respect of the present B/E in question. We find that this Tribunal in the case of the appellant, for the earlier import, vide order dated 12.12.2024 had remanded the matter back to the original authority for submission of the relied upon B/Es to them.

6. Since the issue involved in the present appeal is identical to the appeal already decided by the Tribunal vide order dated 12.12.2024, we

are of the view that the present appeal should also be allowed by way of remand to the original authority. Accordingly, the appeal filed by the appellant is allowed by way of remand to the original authority for submission of the contemporaneous B/Es relied upon in the original order and thereafter to afford opportunity of personal hearing to the appellant to submit their defence reply, whether those contemporaneous B/Es can be considered for determination of the value in the B/E in question, which is the subject matter of the present appeal. Needless to say that opportunity of personal hearing should be granted to the appellant before deciding the issue afresh.

7. In the result, the appeal is allowed by way of remand to the original authority.

(Dictated and pronounced in open court)

**(S.K. MOHANTY)**
**MEMBER (JUDICIAL)**

**(M.M. PARTHIBAN)**
**MEMBER (TECHNICAL)**

*Sinha*