(2021) 03 CESTAT CK 0100

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Customs Appeal No. 143 Of 2010

Ciria India Ltd APPELLANT

Vs

Commissioner Of Customs (Import) Mumbai –I RESPONDENT

Date of Decision : 25-03-2021

Acts Referred:
Customs Valuation (Determination of Price of Imported Goods) Rules, 1988 — Rule 8

Citation : (2021) 03 CESTAT CK 0100

Hon'ble Judges : Ajay Sharma, J;C.J. Mathew, Technical Member

Bench : Division Bench

Advocate : T Viswanathan, K K Srivastava

Final Decision : Disposed Of

Judgement

1. In this appeal which is before us for the second time after disposal of remand, vide order no. A/181/C-II dated 21st July 2009 following appeal of Revenue against decision of first appellate authority to remit the matter back to the original authority, by Commissioner of Customs (Appeals), Mumbai-I, the dispute pertains to loading of value, to the extent of 29.3%, in imports of 'refractory products' effected by M/s Ciria India Ltd, a joint venture of M/s Carborundum Universal Ltd and the Thermal Ceramics division of M/s Morgan Crucible, UK, from companies of Morgan Crucible group in Italy, USA and China.

2. It is pointed out by Learned Counsel for appellant that the value enhancement, reduced in impugned order no. 289/2009/MCH /A/ GVC/09 dated 12th November 2009 of Commissioner of Customs (Appeals), Mumbai - I to 27.2%, has not taken into consideration their submission that the suppliers had been effecting exports to independent buyers in India thus entitling recourse to preceding provisions of Customs Valuation (Determination of Price of Imported Goods) Rules, 1988 instead of direct application of rule 8 as undertaken by the original authority. Moreover, he contends that the original authority had overlooked the extent to which the relationship with supplier had governed imports, and application thereof as related parties before 2007, as held by the

Tribunal in Modi Senator (I) Pvt Ltd v. Commissioner of Customs(Imports & General), New Delhi [2009 (247) ELT 313 (Tri-Del)] and affirmed by the Hon'ble Supreme Court. The appellant also contests the factual premise adopted by the first appellate authority for computing the enhancement.

3. Learned Authorized Representative reiterates the findings of the first appellate authority.

4. On perusal of the impugned order, we find it to be replete with unsubstantiated facts and bereft of findings on the issues raised by appellant which is not in consonance with the intent of the Tribunal in remanding the matter on the former occasion.

5. We, therefore, find it appropriate to set aside the impugned order for remand to the original authority to determine the dispute afresh. Considering the elapse of time, and assessments undertaken in the interregnum, the decision is also to be finalised within reasonable time.

6. Appeal is accordingly disposed off.

(Operative Part of the Order Pronounced in Open Court on 25th March 2021)