(2024) 02 CESTAT CK 0028

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Customs Appeal No. 42227 Of 2014

Commissioner Of Customs APPELLANT

Vs

M/S. Amalgations Valeo Clutch Pvt. Ltd RESPONDENT

Date of Decision : 15-02-2024

Acts Referred:
Customs Valuation Rules, 2007 — Rule 10

Citation : (2024) 02 CESTAT CK 0028

Hon'ble Judges : Sulekha Beevi. C.S., Member (J);Vasa Seshagiri Rao, Member (T)

Bench : Division Bench

Advocate : Anoop Singh, Rohan Muralidharan

Final Decision : Dismissed

Judgement

Sulekha Beevi. C.S., Member (J)

1. Brief facts are that vide Order in Original No.21008/2013 dated 7.6.2013, the Deputy Commissioner of Customs (SVB) held that there is no requirement for revision of the transaction value and accepted the invoice value as the transaction value. Against such order, the Department filed appeal before the Commissioner (Appeals) who upheld the same. Hence the Department is now before the Tribunal.

2. The Ld. A.R Shri Anoop Singh appeared and argued for the Department. It is submitted that the original authority has not ascertained the correctness of the value either by examining the circumstances of sale or by directing the importer to demonstrate that the declared value approximates the transaction value. Further, the original authority has not verified the NIDB data or value of contemporaneous imports of identical / similar goods in order to ascertain the correctness of the value declared by the importer. The original authority blindly relied upon the decision of the Tribunal vide Final Order No.2/2006 dt. 23.12.2005. In the said case, the issue decided was whether the royalty and

technical know-how fee is to be added to the transaction value. The said order was passed for the period 2001-2003. After the said order, there has been amendment to Rule 10 of Customs Valuation Rules, 2007. The said order therefore cannot be applied for the imports made for the disputed period 2010-2013. It is submitted by the Ld. A.R that the original authority has merely relied upon the affidavit filed by the respondent and held that the transaction value can be accepted. As per the procedure, the respondent has to file Annexure Y, Statement 'A' and Statement 'B' along with the request for SVB Valuation. In the present case, there is no discussion as to the said requirement complied by the importer. For this reason also, the order passed by the original authority requires to be reconsidered. Ld. A.R prayed that the matter may be remanded.

3. The Ld. Counsel Shri Rohan Muralidharan appeared and argued for the respondent. It is submitted that the respondent is engaged in the manufacture and supply of clutches and clutch assembly used by them in passenger cars as well as tractors. Some of the raw materials required for the manufacture of these goods, such as steel coil, diaphragm, ball bearings are imported by the respondent from the overseas supplier. These raw materials are specifically designed for use in the manufacture of finished goods by the respondent. In the earlier SVB valuation proceedings, Order-in-Original No.188/2001 dt.6.2.2001 was passed wherein it was held that technical know-how fee is to be included in the transaction value. The respondent challenged this order before the Commissioner (Appeals) and ultimately the Tribunal vide Final Order No.2/2006 dt. 23.12.2005 held that the technical know-how fee is not a condition of sale of the imported goods and is not required to be added to the invoice value. In the present case, the imports were made for the period 2010-2013 and the respondent has not paid any royalty or technical know-how fee. Even though there is an amendment brought forth to the Customs Valuation Rules, 2007, the said amendment relates to the inclusion of royalty / technical know-how to the transaction value. As the respondent has not paid any royalty / technical know-how fees to the overseas supplier, there is no question of considering the same. This aspect has been discussed by the Commissioner (Appeals) in the impugned order. It is also pointed out by the Ld. Counsel for the appellant that appellant had filed an affidavit stating that the conditions which were prevailing for the earlier period still continues and that there is no change of circumstances. The original authority after verification of documents submitted by the appellant and necessary investigation has held that the transaction value can be accepted. The department has not been able to produce any evidence to show that there is any change of circumstances or any evidence for undervaluation. It is prayed that the appeal may be dismissed.

4. Heard both sides.

5. The issue to be decided is whether the order passed by the original authority that the transaction value can be accepted for the period 2010-2013 is legal and

proper.

6. The Department has filed appeal assailing that the original authority has not conducted sufficient investigation or any verification of documents and has merely relied upon earlier order of the Tribunal to accept the transaction value. On perusal of the grounds of appeal, it is seen that apart from the vague submission that the original authority did not conduct any thorough verification there is no specific grounds raised that there is undervaluation. There is no material pointed out to show that that the price quoted for similar goods as per NIDB data or contemporaneous imports is higher or different from the value adopted by the respondent. Although Ld. A.R vehemently argued that the matter requires to be remanded, it can be seen that the respondent has filed an affidavit stating that there is no change of circumstances. They have also produced necessary documents. The argument in regard to amendment of Rule 10 is also not material to be considered for the reason that for the disputed period (2010-2013) the respondent has not paid any royalty or technical know-how fee. Therefore, the amendment has no bearing to decide the issue as to whether the transaction value accepted by the department is proper. From the forgoing, we find that the appeal filed by the department is without any merits. The appeal is dismissed.

