

IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH "SMC" GAUHATI

Before Shri Sanjay Garg, Judicial Member

आयकर अपील सं.य/ ITA No. 128/Gau/2019 Assessment Year:2015-16

Shri Pawan Jain C/o Rajratan & Co., G.K Tower, A T Road, Bharalukukh, Guwahati- 781009, Assam. PAN: ABWPJ1413H	बनाम/ V/s.	I.T.O., Ward (4)2, O/o JCIT, Range-4, 5 th Fl., Aaykar Bhawan, G S Road, Guwahati, 781006, Assam i
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

Hearing through video Conferencing

अपीलार्थी की ओर से/By Appellant	Shri R.K. Joshi, Advocate, A.R
प्रत्यर्थी की ओर से/By Respondent	Shri Jayanta Mridha, JCIT, SR-DR
सुनवाई की तारीख/Date of Hearing	16-03-2021
घोषणा की तारीख/Date of Pronouncement	16-03-2021

आदेश /O R D E R

The present appeal has been preferred by the assessee against the order dated 20-12-2018 of the Commissioner of Income-tax (Appeals), Guwahati [hereinafter referred to as 'CIT(A)'].

2. The sole issue raised by the assessee in this appeal is relating to addition of Rs. 2,91,19,670/- made/confirmed by the lower authorities on account of difference between import purchase value shown by the assessee compared to the valuation by the Custom authorities for the purpose of levy of custom duty as per the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

3. At the outset, the Learned Counsel for the assessee has brought my attention to the impugned assessment order to show that the Learned Assessing Officer (in short, the

Ld. AO) did not find any evidence regarding suppression of value of goods from the accounts of the assessee or otherwise. The basis on which the Ld. AO has made the impugned addition is that the Custom Authorities for the purpose of levy of custom duty have applied certain formula by way of which the value of the imported goods for the purpose of levy of custom duty has been adopted. The Ld. Counsel for the assessee has submitted that as per the Custom Valuation (Determination of Value of Imported Goods) Rules, 2007, the Custom Authorities have adopted certain formula on the basis of which the custom duty is levied. However, the applicability of said formula for determination of custom duty cannot be the basis to hold that the assessee has suppressed the actual purchase value of the imported goods.

4. The Learned Departmental Representative (in short, the Ld. DR) could not show from the record that any other evidence was available with the Assessing Officer to arrive at a conclusion that the assessee had suppressed the purchase of value of imported goods.

5. I find merit in the contention of the Ld. Counsel for the assessee. Though there may be valuation adopted of the goods by the custom authorities for the purpose of levy of custom duty on the basis of certain formula as per prescribed Rules, however, the Ld. AO has not brought anything/ material on record that the assessee had suppressed the purchase value of the imported goods Therefore, there was no justification on the part of the Ld. AO to make the impugned addition. Accordingly, the same is ordered to be deleted.

In view of the above, the appeal of the assessee stands allowed.

Order pronounced in open court at the time of hearing on
Tuesday, 16th March, 2021.

Sd/-
(Sanjay Garg)
Judicial Member

दिनांक:- 16-03-2021

कोलकाता/Kolkata

**PP/Sr.PS

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant/Assessee: Shri Pawan Jain C/o Rajratan & Co., G.K Tower, A T Road, Bharalukukh, Guwahati-781009, Assam.
2. प्रत्यर्थी/Respondent-I.T.O., Ward-(4)2, O/o JCIT, Range-4, 5th Fl., Aaykar Bhawan, G S Road, Guwahati, 781006, Assam
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Guwahati
6. गार्ड फाइल / Guard file.

By order/आदेश से,

/True Copy/

Senior Private Secretary