ALO Law Office- IDT Tax I Arbitration I Litigation

Date: 22.05.2025

CESTAT Kolkata- valuation enhancement was arbitrary and unsupported

The Eastern Zonal Bench of CESTAT, Kolkata upheld the decision of the Commissioner (Appeals) in favor of Aahana Commerce Pvt. Ltd., rejecting the Revenue's appeal challenging the classification and assessable value of imported goods, namely motor controllers and electric tricycle spare parts.
The Tribunal confirmed that the goods were correctly classified under CTH 8503 0090 and also held that the transaction value declared by the importer was valid, striking down the enhancement made by the assessing officer.

Background of the Case

- **Importer:** Aahana Commerce Pvt. Ltd., Kolkata
- **Goods Imported:** Motor controllers and electric tricycle spare parts
- **Department's Actions:**
  - Rejected declared value and enhanced the CIF value
  - Reclassified motor controllers from CTH 8503 0090 to CTH 8708 9900
  - Importer paid enhanced duty under protest to avoid demurrage
- **Commissioner (Appeals):**
  - Accepted the declared transaction value
  - Restored classification to CTH 8503 0090

Key Issues Before the Tribunal

1. Whether the enhanced valuation based on NIDB data was valid

2. Whether the motor controller was correctly classified under CTH 8503 or should fall under CTH 8708 as per Revenue's contention

CESTAT's Observations and Findings

1. On Transaction Value and Valuation Enhancement:

- NIDB data used by the assessing officer was flawed—it reflected only assessed value, not actual declared transaction values.
- The valuation lacked comparability with respect to country of origin, quantity, and product quality, violating Rule 5 of the Customs Valuation Rules, 2007.
- The Department failed to provide any evidence of contemporaneous imports or prove that the declared value was not genuine.
- No expert panel or technical examination of goods was conducted.
- The Tribunal cited precedents including:
    - *Prayas Woollens Pvt. Ltd. vs. CC Mumbai*
    - *Sanjivani Non-Ferrous Trading Pvt. Ltd.*
    - *Aakash Enterprises vs. CC New Delhi*

Conclusion: The enhancement was arbitrary and without legal backing. The transaction value was to be accepted.

2. On Classification of Motor Controller:

- Motor controllers are parts used principally with electric motors, not specific to e-rickshaws.
- CTH 8503 specifically includes parts suitable for use with machines of Heading 8501 or 8502, covering electric motors.
- Revenue's claim under CTH 8708 was unfounded as:
    - There was no declaration that controllers were exclusively for e-rickshaws
    - Explanatory notes to Chapter 87 exclude such controllers
    - No technical or evidential justification was provided

Conclusion: Controllers are correctly classified under CTH 8503 0090, as they primarily serve to control electric motor functions.

Final Verdict by CESTAT Kolkata

- Revenue's Appeal Dismissed
- Classification under CTH 8503 0090 Upheld
- Transaction Value Accepted
- No infirmity found in the Commissioner (Appeals)' Order

Legal Significance

This decision reinforces key principles of customs law:

- Declared transaction value must be respected unless explicitly disproved with valid evidence.
- Classification must be based on principal usage and not speculative end-use assumptions.
- NIDB data cannot replace Rule-based valuation processes and must be used judiciously.

This Article has been written by Shri Ravi Shekhar Jha, Advocate Delhi High Court based on his interpretation of the law. He can be reached at his email id intelconsul@gmail.com or on his Mobile +91-9999005379.

Source: CESTAT Kolkata

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IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA

REGIONAL BENCH - COURT NO.1

Customs Appeal No.75071 of 2020

(Arising out of Order-in-Appeal No.KOL/CUS(Port)/AKR/801/2019 dated 13.12.2019 passed by Commissioner of Customs (Appeals), Kolkata.)

Principal Commissioner of Customs (Port), Kolkata
(15/1, Strand Road, Custom House, Kolkata-700001.)

...Appellant

VERSUS

M/s. Aahana Commerce Pvt.Ltd.

.....Respondent
(3, Woodburn Park, Malayalay, Unit No.2A(S), 2nd Floor, Kolkata, West Bengal.)

APPEARANCE

Shri Tariq Suleman, Authorized Representative for the Revenue
Shri Sudhir Mehta, Sr.Advocate & Ms. Riya Debnath, Advocate for the Respondent

CORAM: HON'BLE SHRI R. MURALIDHAR, MEMBER(JUDICIAL)
HON'BLE SHRI RAJEEV TANDON, MEMBER(TECHNICAL)

FINAL ORDER NO. 76340/2025

DATE OF HEARING : 14.05.2025
DATE OF DECISION : 14.05.2025

Per : R. MURALIDHAR :

The facts of the case are that the Respondent imported Motor Controller and different types of Electric Tricycle Spare Parts. All the bills of entries were filed; the Assessing Officer reassessed the importation by enhancing the CIF value and rejected the declared value of the impugned goods and also changed the classification of the item imported viz. 'Motor Controller' from CTH 8503 0090 to CTH 8708 9900.

2. The Respondent, to avoid delay and demurrage charges, cleared the goods on payment of the enhanced customs duty, under protest, and

requested the lower authority to issue the order(s) of assessment under Section 17(5) of the Customs Act, 1962.

3. Accordingly, the ld. adjudicating authority passed orders under Section 17(5) of the Customs Act, 1964.

4. Being aggrieved from the said assessment done by the ld. adjudicating authority, the Respondent filed appeals before the Ld. Commissioner (Appeals). The Ld. Commissioner (Appeals), after examining the issue, vide the impugned orders, set aside the orders of assessment; the value declared by the Respondent was accepted and the goods in question have been classified as 'Motor Controller' under CTH 8503 0090.

5. Aggrieved from the said orders, the Revenue is before us.

6. Both sides agree that the same issue in respect of the same appellant came up to be decided by this Bench vide Final Order No.76594-76597/2024 dated 07.08.2024. The Bench has held as under:-

> *"10. We find that in respect of both the issues, with regard to valuation as well as classification, the Ld. Commissioner (Appeals) has examined the same and given his findings in the respective Orders-in-Appeal.*
>
> *10.1 Regarding the issue of valuation, we find that the NIDB data, which the Revenue has relied upon for enhancing the value, is showing the assessed value and not the declared value. In these circumstances, the value declared in the NIDB data is not acceptable in the absence of NIDB data with regard to the 'declared' value. Therefore, the enhancement made by the ld. adjudicating authority is contrary to law and we find that the Ld. Commissioner (Appeals) has rightly struck down the enhancement in price. For the sake of ready reference, the relevant part of the findings of the lower appellate authority in the impugned Order-inAppeal No. Kol/Cus(Port)/AKR/816-818/2020 dated 05.11.2020 on the issue of valuation is reproduced below: -*
>
> > *"9. I find that the value was enhanced citing higher prices of the contemporaneous imports of similar goods. However, the valuation of similar goods depends on factors such as country of origin, quantity of the goods imported, produced by the same person who produced the goods being valued, quality of the goods i.e. characteristics, composition & like component material. Moreover, the NIDB data is not*

exhaustive in nature as it only depicts the value at which the goods are assessed but not whether such assessed value is declared value by the importer or enhanced value by the proper officer. I also find that the lower authority has enhanced the value as declared by the appellant by placing its reliance on the particular imports and neglecting the clause of lowest value as mentioned under Rule-5 of CVR-2007. As such, the lower authorities adopted the pick and choose approach which did not reflect the true nature of the NIDB database. I find that in the case of Prayas Woollens Pvt. Ltd. vs. CC Import Mumbai, reported in 2016 (332) ELT 376 (Tri-Mum), Hon'ble Tribunal held as follows:

> *"6. Since no evidence was produced by the Revenue, enhancement of the price of the impugned goods appears to be without any basis. It is a trite law that for applying the price of contemporaneous goods, it is necessary to ascertain that the goods is of same character, quality, quantity, country of origin etc. and without ascertaining the same, the adoption of price of contemporaneous goods cannot be treated as price of contemporaneous goods. Due to the said deficiency in the whole proceeding, we are of the considered view that there is no sufficient basis for revenue to enhance the value of imported goods. We, therefore, modify the impugned order and allow the appeal."*

10. Moreover, even for the sake of the contention as raised by the lower authority that the goods so imported have their declared value on the lower side and is not in consonance with the values as available in NIDB database, as already discussed supra, 1 find that the value of the similar goods depends upon the various factors as mentioned under Rule-5 of CVR-2007 which have not been examined by the lower authority in its impugned assessment order passed under Section 17(5) of the Act. In the instant appeal, I find that there is nothing on record to indicate that the price declared by the importer was not genuine. I also find that the invoice as submitted by the appellant was examined/rejected by the lower authority in its impugned order. The assessing officer's remarks only stated that the declared value "appears to be low. Also, the goods were not subjected to examination by any panel of experts or valuer. Moreover, In any event, there is no provision in the Act to say that in the absence of the manufacturer's invoice, transaction value cannot be accepted or is to be considered not to be genuine. There was therefore no reason for not accepting the transaction value. I also find that in the case of Sanjivani Non-Ferrous

Trading Pvt. Ltd. versus C.C.E. & S.T., Noida reported in 2017 (7) GSTL 82 (Tri.- All), Hon'ble CESTAT held as follows:

> *"7. Having considered the rival contentions and on perusal of record, we find that the Original Authority was directed by the Hon'ble High Court to pass speaking order on the enhancement of assessable value. We find that the Original Authority in its Order-in-Original dated 25-3-2015 has passed comments on the grounds of writ petition and did not properly examine the evidence available with the department required to be examined for enhancement of assessable value. Further, we find that as held in the case laws stated above and as provided by Section 14 of Customs Act, 1962, the assessable value has to be arrived at on the basis of the price which is actually paid and in a case the price is not sole consideration or if the buyers and sellers are related persons then after establishing that the price is not sole consideration the transaction value can be rejected and taking the other evidences into consideration the assessable value can be arrived at. Such exercise has not been done in these cases on hand. Therefore, we reject the enhancement of assessable value in respect of the Bills of Entry which are involved in all the appeals being decided and we restore the assessable value as declared by the appellant in said Bills of Entry.*
>
> *8. In result, we set aside all the impugned Orders-inAppeal and allow all the appeals. The appellant shall be entitled for consequential relief, if any, in accordance with law."*

11. I have also gone through the assessment order wherein the lower authority has relied upon the case-law of M/s Rajkumar Knitting Mills (P) Ltd. vs. Collector of Customs, Bombay reported in 1998 (98) ELT 292 (S.C) wherein the relevant judgment reads as follows:

> *"9. In the present case, the value of the goods has been assessed on the basis of price paid by M/s. Hibotex Put. Ltd. in respect of similar goods which were imported from the same supplier at about the same time as import of goods by the appellant The date of shipment of the goods imported by M/s. Hibotex Pvt. Ltd. was June 25, 1988 and the date of arrival of the goods was August 4, 1988, while in respect of the goods imported by the appellant the date of shipment was June 18, 1988 and the date of arrival was July 26, 1988. There was a difference of about a week only between the dates of shipment and dates of arrival of goods in the said imports. The price of the*

goods imported by M/s. Hibotex Put. Ltd. could, therefore, provide the basis for assessing the value of the goods imported by the appellant. The price of the goods imported by M/s. Hibotex Pvt. Ltd. was 7,00,000 Japanese Yen per set. Having regard to the fact that the appellants had contracted for a larger quantity, the Additional Collector has allowed quantity discount of 1,00,000 Japanese Yen per set on the basis of the letter of suppliers dated September 7, 1988 and he assessed the value of the goods at 6,00,000 Japanese Yen per set. The said assessment has been upheld by the Tribunal. We do not find any infirmity in the said approach of the Additional Collector. In the circumstances, we do not find any merit in the appeal and the same is accordingly dismissed. There shall be no order as to costs."

As per the reading of the brief facts and the ratio laid down by the Hon'ble Apex Court in the case of Rajkumar Knitting Mills (P) Ltd. I find that in the said case, the importer i.e. M/s. Rajkumar Knitting Mills (P) Ltd. had imported the goods from the same supplier as M/s Hibotex Pvt. Ltd. and about the same time. However, in the instant case, no evidence has been provided by the lower authority which is contemporaneous to the import of the goods involved in the instant appeal.

I also find that the department without citing any case of contemporaneous imports wants to enhance the value of the imported goods only on the basis of the NIDB data (if any) and goods which were assessed at higher values even though the payment of duty for the latter is made under protest. Accordingly, the facts of the instant appeal are distinguishable from the case of Rajkumar Knitting Mills (P) Ltd. (supra)

12. The transaction value entered into by the appellant with its supplier cannot be rejected only on the basis that another importer is paying a different price for its imported goods. It is also to be noted that there is a difference in the quantity of importation at that material point of time. As such, the transaction value as declared by the appellant cannot be rejected on the sole ground of the transaction value of the other instances/importers. The lower authority has only placed its reliance on NIDB data which has already been discussed is not an exhaustive approach to arrive at the true/enhanced value. In this regard, the reliance is placed on the following decisions:

- *Aakash Enterprises vs Commissioner of Customs, Newdelhi [2017 (358) ELT 987 (Tri.-Del)]*
- *Venture Impex Pvt. Ltd. vs. C.C. (Import & General), New Delhi [2016 (338) ELT 759 (Tri.-Del)]*
- *Dev Tek India vs. Commissioner of Cus. ICD, TKD, New Delhi [2016 (338) ELT 301 (Tri.-Del]*
- *Topsia Estates Pvt. Ltd. vs. Commr. of Cus. ()Import-Seaport), Chennai [2015 (330) ELT 799 (Tri.-Chennai)]*

13. I also find that the reply submitted by the appellant to the query as raised by the proper officer were also neither refuted nor discussed by the lower authority in its impugned order. The order is thus passed in a mechanical manner just to satisfy the provisions of Section 17 (5) of the Act based on presumption and assumption. There is also a violation of the principles of natural justice as the contention of the appellant is neither considered nor refuted by the authority making the whole process non-maintainable in nature. It is also held in various judgments that NIDB data is a form of guidance and assistance provided to the assessing officer to arrive at the values of the goods imported into the country. However, placing the sole reliance on NIDB data without conducting the further enquires as accorded under Customs Valuation Rule-2007 vitiates the necessity of the valuation rules and as such making the whole process of value enhancement arbitrary in nature and non- maintainable as per law.

I also find that the supplier & the quality & quantity of the goods as imported by the appellant and that relied upon by the lower authority are not in consonance. The quantity & quality of the goods and the supplier/exporter from whom the goods are imported also plays an important role in the fixation of the value of the goods keeping the true spirit of Rule-5 of CVR-2007. The same is not considered by the lower authority in the instant case.

Accordingly, I find that the enhancement of values by the lower authority is arbitrary and without following any underlying legal principles read with Section 14 of the Act and Rule-5 of Customs Valuation Rule-2007. Thus the values have been enhanced without application of mind, in a mechanical manner without following Section 14 and valuation rules. As such the whole exercise of value enhancement is not maintainable and liable to be set aside.

11. We observe that the assessing officer has rejected the transaction values without any valid basis/reasons and without following the due

procedure as laid down under Section 14 and Valuation Rules, especially when there is nothing on record to suggest that the transaction values declared by the appellant were not the price actually paid for the goods when sold for export to India. There is also nothing on record to suggest that the buyer and seller of the goods were related or price was not the sole consideration for sale. Also, we find that the Department has adduced no evidence that the respondent has paid any amount over and above the invoice value to the foreign supplier. In these circumstances, we hold that the enhancement of assessable values by the ld. adjudicating authority is liable to be struck down and set aside and the impugned bill of entry is to be assessed at values declared by the Respondent. We observe that the Ld. Commissioner (Appeals) has given categorical findings to reject the enhancement of value by the assessing officer and we find no reason to interfere with the same. Accordingly, we uphold the impugned order passed by the Commissioner (Appeals), accepting the transaction value declared by the Respondent in the respective Bills of Entry.

12. Regarding the classification of the goods imported by the Respondent, we observe that the Respondent has classified the goods under the Tariff Heading 8503 0090. Customs Tariff Heading 8503 covers "parts suitable for use solely or principally with the machines of heading 8501 or 8502" and Custom Tariff Item 8503 0090 covers "parts of electric motor (other than DC motor)". The electric motor is classified under the chapter heading 8501.In the Assessment Order, the Ld. Adjudicating authority has observed that the 'Controller' is used for starting and stopping the motor, selecting forward or reverse rotation, selecting and regulating the speed etc. We observe that all these functions are connected to motor and the 'controller' is principally used with the motor to perform these functions. Thus, we observe that the 'controller' imported by the Respondent is rightly classifiable under the chapter 8503.

12.1. The allegation of the department is that the 'Controller' does not form a part of the electric motors, but is a separate and complete device used for controlling numerous activities including that of motor. We have also gone through the definition of "controller" as provided by the adjudicating authority which reads as follows:

"A Controller is a comparative device or group of devices that receives an input signal from a measured process variable, compares this value with that of a predetermined control point value (set-point), and determines the appropriate amount of output signal required by the final control element to provide corrective action within a control loop. An electric/electronic controller uses electric signals and digital algorithms to perform its receptive, comparative and corrective functions."

12.2. As per the definition of 'Controller' reproduced above, we observe that the controller has multiple usages and it is nowhere discussed in the assessment order or declaration given by the Respondent that the said motor will be employed in e-rickshaw. There is no logical reasoning provided in the assessment order that the motor has sole function of operation in e-rickshaw and cannot be operated in other mechanical equipment. The lower authority in its assessment order gave various pictorial references regarding the usage of controller with the e-rickshaw but nowhere discusses the usage of the same with the motor as declared by the Respondent.

12.3. We find that the adjudicating authority has considered that the controller is used for the starting and stopping the motor, forward or reverse motion and in the regulation of speed. However, the controller cannot on its own perform the said functions in the e-rickshaw without the presence of motor in the said vehicle. Therefore, the controller can be employed in e-rickshaw only when the motor to which it is attached to is an intangible part of the vehicle. As it is evident that the motor in itself has various usages and not solely to be used with the electric tri-cycle, as such the functions of the controller will also become limited in accordance with the principal function performed by the motor.

12.4. Controllers may be of various categories depending upon their usage and also depending upon the nature of the motor and the machine in which it is to be used. The main function of the controller as per the definition provided in paragraph 12.1 supra is to control the working of the machine i.e. to start and stop the operations of an electric motor which gives the desired speed to the operations of the machine for which it is being used. In this case, it has been confirmed that the controller receives signals from the stations and controls power

supply to motors which enables operators to start the motor in the desired direction and stop the motor as soon as the desired function is achieved. Thus admittedly the said controller does the function of "start" and "stop" of an electric motor attached to the hosts.

12.5. We also observe that there is no specific entry for the controller in the Customs Tariff Act, 1975. The adjudicating authority has considered the goods imported by the Respondent to be a part of erickshaw and classified the same under CTH 8708. The lower authority also described various parts of the motor such as rotor, frame, stator, motor shaft, commutator & brushes & terminals and contended that since the controller is not the part of the motor the same cannot be classified under CTH 8503. In this regard, we find that the chapter heading of CTH 8503 reads as follows:

> *"8503 Parts suitable for use solely or principally with the machines of heading 85.01 or 85.02."*
>
> *"8503.00 Parts suitable for use solely or principally with the machines of heading 8501 or 8502."*

12.6. As per the reading of descriptions as provided under Import Tariff, Section Notes to Chapter XVII and Explanatory Notes to HSN/CTH 8708, the goods imported will have the essential characteristic of parts & accessories of e-rickshaw only when the same are solely or principally used in the said vehicle. We also find that the goods as imported by the Respondent did not fulfil the description as provided in explanatory notes to CTH 8708. Further, the electronic controllers are excluded from the parts covered under CTH 8708. Moreover, the lower authority in its findings has not adduced any evidence that the goods imported by the respondent are the parts and accessories of e-rickshaw. We also observe that there is no declaration by the respondent that the said goods will be solely/principally employed in the manufacturing/making of the electric tricycle. As per the terminology of CTH 8708, the goods covered should be the parts and accessories of motor vehicles under CTH 8701 to 8705 and as per the point 3 of the Notes to Chapter XVII, the said goods having the description in two or more of the headings of those chapters is to be classified under that heading which corresponds to the principle use of that part of accessory. As per the reading of point 3 of Notes to Section

XVII and the explanatory notes covering both CTH i.e. 8503 & 8708, the said goods are imported under the description of 'controller' and there is no declaration by the respondent that the said goods are the spare parts of e-rickshaw.

12.7. We also find that the controllers are not covered under the CTH 8708 as per the explanatory notes to Section XVII. It is also pertinent to note that the Notes to CTH 8503 covers the parts to be used with motor and as such merits the classification of the goods under CTH 8503. Thus, we hold that the goods imported by the Respondent are rightly classifiable under Chapter heading 8503 0090 as claimed by them in the respective Bills of Entry.

13. Hence, we find that the correct classification of the goods in question is CTH 8503 0090. Therefore, hold that the Ld. Commissioner (Appeals) has rightly held the classification of the impugned goods under CTH 8503 0090.

14. In view of the above, we do not find any infirmity in the impugned orders and the same are upheld.

15. In the result, the appeals filed by the Revenue are dismissed."

8. Since the identical issue already stands decided on the above lines, respectfully following the decision, we dismiss the Revenue Appeal.

(Dictated and pronounced in the open Court.)

Sd/	Sd/
(RAJEEV TANDON)	**(R. MURALIDHAR)**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

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