



- (4) I find that the same exporter i.e. AB Inc, USA had supplied 1,200 Kg of X to an importer in India @ 18 US \$ in September 2007. Assessee contended that price of goods imported in September 2008 cannot be considered for valuation of goods imported in April 2008 as the import is not at or about the same time, as required in rule 4(1)(a) Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Hence, this price cannot be considered for valuation. I agree with this contention of assessee.
- (5) It was brought to notice of assessee that Price of 'AB Inc' for sale within USA is 20 US \$ per Kg. Assessee replied that only price in International Trade can be considered for valuation purposes as per section 14 of Customs Act. I agree with this contention of assessee.
- (6) Similar goods are produced in India. These are available in India at equivalent dollar price of 12 US \$ per Kg. However, I observe that such price cannot be considered for assessment in terms of rule 9(2)(i) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- (7) Assessee contended that another manufacturer in Germany, has supplied the 'X2' goods @ 10.50 US dollars per Kg at around the same time. The 'X2' goods are equivalent to 'X' and can be used instead of 'X' and that price may be considered for assessment. I find that in terms of rule 5, price of similar goods can be considered only if both are from same country. The price of goods imported from Germany could have been considered under rule 9(1) as residual method. However, this method has application only if Customs Value cannot be determined by any other method.
- (8) Another manufacturer-exporter from USA had supplied 800 Kgs 'X1' goods to an importer in India @ 14 US \$ per Kg in February 2008. The 'X1' are alike 'X' and can be used instead of 'X'. Both manufacturers-exporters from USA are well reputed. Thus, in terms of rule 5 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, these could be considered as 'similar goods' and hence that price can be adopted for valuation.
- (9) The importer in his reply stated that he has been able to negotiate the low prices of US \$ 10/- as special introductory price on special consideration of assurance of future orders. However, he stated that in terms of explanation (1)(ii) to Valuation Rules, even if discount is abnormal, the declared value is required to be accepted if it is true and accurate.
- (10) Assessee contended that even if the price is low, it is true and accurate. There is no evidence that the difference was paid through some different means to the exporter.
- (11) I agree with the contention of the assessee.