

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2992/2006

COMMNR. OF CUSTOMS (APPEAL) CHENNAI

APPELLANT(S)

VERSUS

M/S. SAME ENGINES INDIA PVT. LTD.

RESPONDENT(S)

O R D E R

The respondent-assessee had imported components of Tractors from M/s. Same Duetz Farh, Italy and filed Bill of Entry stating the price at which the goods were imported and seeking to pay the customs duty thereon. The Customs Authorities, however, found that the respondent had also entered into Technical Know-how Agreement with the same manufacturer and the cost of the said Technical Know-how agreement was not included by the importer while declaring the value of the goods. Show cause notice was issued and demand contained therein was confirmed vide Order-in-Original by the Adjudicating Authority. The Tribunal has deleted the cost of Technical Know-how agreement holding that that cannot be the cost of import.

We have gone through the Technical Know-how agreement which was entered into between the manufacturer and the respondent-assessee. As per this agreement, following services were to be provided by the foreign party to the respondent:

"A) training as mentioned in Clause 7 of this

Agreement;

B) supplying the technical know-how, Manufacturing Facilities and Manufacturing procedures and Methods as defined in Clauses 5 and 6 and as in Annexure II of this Agreement in respect of the Products and Parts;

C) granting the use of Intellectual Property Rights;

D) supplying the technical information and drawings regarding the products and parts as mentioned in this Agreement."

We have also gone through the details of the aforesaid services which were to be provided under the agreement. From the reading it becomes apparent that all these services are post-importation and, therefore, could not be added to the value of the goods imported. The matter is squarely covered by the judgment delivered by this Bench in the case of Commissioner of Customs, Ahmedabad vs. M/s. Essar Steel Ltd. [2015(319) ELT 202].

The appeal is, accordingly, dismissed.

.....J.  
[A.K. SIKRI]

.....J.  
[ROHINTON FALI NARIMAN]

NEW DELHI;  
AUGUST 28, 2015.

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Civil Appeal No(s). 2992/2006

COMMNR. OF CUSTOMS (APPEAL) CHENNAI

Appellant(s)

VERSUS

M/S. SAME ENGINES INDIA PVT. LTD.  
Respondent(s)

(with office report)

Date : 28/08/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI  
HON'BLE MR. JUSTICE ROHINTON FALI NARIMANFor Appellant(s) Mr. A.K. Panda, Sr. Adv.  
Mr. Sanjai Kumar Pathak, Adv.  
Ms. Nisha Bagchi, Adv.  
Ms. Sunita Rani Singh, Adv.  
Mr. B. Krishna Prasad, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

The appeal is dismissed in terms of the signed order.

(Ashwani Thakur)  
COURT MASTER(Renu Diwan)  
COURT MASTER

(Signed order is placed on the file)