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C.A.No. 6232 OF 1997
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.6232/1997

M/s Tolin Rubbers Pvt.Ltd.
...
Appellant

VERSUS

Commr. Of Customs, Cochin
...
Respondent

O R D E R

The appellant before us imported certain machinery under Bill of Entry dated 22.1.1996. The Assessing Authority held that the machinery in question has been used since 1968 and as per chartered engineer's certificate the machinery is found to have satisfactory useful residual life of at least 10 years and giving maximum depreciation of 70% held that certificate issued by the chartered engineer should be held to be correct and admissible, as the basis for the determination of value in terms of Section 14 of the Customs Act, 1962 read with the Customs Valuation Rules 1988 and determined the assessable value of the goods in question at Rs.53,77,412/-in terms of Rule 8 to Customs Valuation Rules 1988 issued under Section 14(1) A of the Customs Act.

The matter was carried in appeal and, thereafter, in further appeal to the tribunal unsuccessfully and hence this appeal before us. Learned counsel for the appellant brought to our notice a decision of this Court in Eicher Tractors Ltd. Haryana Vs. Commissioner of Customs, Mumbai -(2001) 1SCC 315 in which it has been held that the mode of determination of the value of the goods in question in such matters as has been laid down in Rule 4(1) the transaction value will have to be determined and under the Rule 4(2) if any exceptional circumstance is found then the transaction value indicated in Rule 4(1) will have to be rejected and further determination have to be made under Rule 8. That procedure has not been followed in this case. None of the authorities advert to this Rule or say for what reasons as provided under Rule 4(2) the transaction value will have to be rejected. In these circumstances, we allow this appeal, set aside the order made by the authorities

and hold that the Bill of Entry as made by the appellant shall be accepted. The appeal is allowed accordingly. If any payment has been made the same shall be refunded.

.....J.
(S. RAJENDRA BABU)

.....J.
(G.P. MATHUR)
New Delhi,
November 11,, 2003.

ITEM No.102

Court No.2

SECTION-III

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO.6232/1997

M/s Tolin Rubbers Pvt. Ltd.

Appellant(s)

VERSUS

Commr. Of Customs, Cochin
(With office report)

Respondent (s)

Date :12.11.2003:This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MR. JUSTICE G.P. MATHUR

For Appellant (s)Mr. Joseph Vellapally, Sr. Adv.
Mr. C. Hari Shankar, Adv.
Mr. Harpreet Singh, Adv.

For Respondent (s) Mr. Gauri Shankar, Adv.
Ms. Meenakshi Sakhardande, Adv.
Mr. B.K. Prasad, Adv.

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

Learned senior advocate/learned counsel for the parties made their submissions from 3.15 p.m. to 3.45 p.m

The appeal is allowed in terms of the signed order.

(Meenu Sethi)
Court Master

(Promila Nagpal)
Court Master

Signed order is placed on the file