



Inclusion of royalty and licence fee for the valuation of goods imported from Group Company

Saint Gobain Glass India Limited, an Indian entity (“importer”) had imported capital goods from its group company Saint Gobain Vintage, France, foreign entity. In terms of mutual arrangement Indian entity was to pay royalty of 3% on sales to its foreign holding company towards transfer of all information on Basic Float Process Technology. The transaction value declared on the invoice was challenged by the Customs officials on the ground that royalty and licence fee paid by the importer was directly related to the imported goods and thus the same should be added to the value of imported goods as per rule 9(1)(c) of Customs valuation Rules. Further, the Customs Officials contended that the cost of the imported goods was included in the net ex-factory sale price and payment of royalty @ 3% become a condition for sale, satisfying both the condition of rule 9(1)(c) of custom.

Held:

The Apex court held that Rule 9(1)(c) deals with

those royalties and licence fee which are related to the imported goods as a condition for sale of goods are included in value of imported goods. In the present case there is no indication that the foreign entity will assist the Indian entity in respect of the imported goods. In other words, there was no pre-condition that the Indian entity has to purchase goods or use only those goods approved by its foreign entity or the licence fee and royalty is on the importation of capital goods. The contract between related party was for assistance in the manufacturing process. Further, the words used in the definition ‘machine, material and techniques used for or in connection with the production’ would make it clear that the same are related to manufacture of finished goods i.e. to say that the basic technology to be adopted for manufacture of finished goods. Thus, royalty paid cannot be treated as a condition of sale of the present imported goods. Therefore, the royalty and licence fees will not be included with value of imported capital goods. Thus, the impugned order was set aside and appeal filed by the appellant was allowed with consequential relief.