CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT No. I

Customs Stay Application No.70459 of 2019 In
Customs Appeal No.70459 of 2019-[DB]

(Arising out of Order-in-Appeal No.NOI-CUSTM-000-APP-1783 TO 1871-18-19 dated 07/01/2019 passed by Commissioner (Appeals) Customs, Central Excise & Service Tax, Noida)

Commissioner of Customs, Noida **.....Appellant**

(Commissionerate Noida)

VERSUS

M/s Artex Textile Pvt. Ltd., **....Respondent**

(Khasra No.282, Gali No.04,

Shalimar Village Industrial Area, New Delhi-110088)

APPEARANCE:

Shri Anupam Kumar Tiwari, Authorised Representative for the Appellant
Shri Sunil Kumar Gupta, Advocate for the Respondent

CORAM: **HON'BLE SMT. ARCHANA WADHWA, MEMBER (JUDICIAL)**
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

Stay Order No-70064/2020

&

FINAL ORDER NO-70162 / 2020

DATE OF HEARING : 04 February, 2020
DATE OF DECISION : 04 February, 2020

PER: ARCHANA WADHWA

After rejecting the request for staying the operation of the impugned order, we proceed to decide the revenue's appeal itself, as a short issue is involved. We also note that though the Commissioner (Appeals) has disposed of 89 appeals, thus requiring the revenue to file 89 appeals before Tribunal, only one appeal stands filed. If the said appeal is treated as appeal against the first Bill of Entry, the appeal is hit by the bar of litigation.

2. In any case and in any view of the matter, we note that the issue relates to enhancement of assessable value of imported fabrics. The assessing officers have enhanced the same on the basis of NIDB data and without giving any reason. Commissioner (Appeals) while granting relief to the asseessee has observed that in all other identical matters, the enhancement has been set aside and those orders has been upheld by the Tribunal. Inspite of that the present appeal stands filed by the Revenue in a mechanical manner.

Otherwise also, we find that the issue is no more res-integra and stands settled by the Hon'ble Supreme Court's decision in the case of Commissioner of Central Excise and Service Tax Noida Vs M/s Sanjivini Non-Ferrous Trading Pvt. Ltd. in Civil Appeal Nos. 18300-18305 of 2017. Through the said decision, Hon'ble Supreme Court has upheld the Tribunal's order, setting aside the enhancement of value on the basis of NIDB data. As such, we find no justifiable reasons to interfere in the impugned order of Commissioner (Appeals). Accordingly, revenue's appeal is rejected. Stay petition also gets disposed of.

(Dictated and pronounced in open court)

(Archana Wadhwa)
Member (Judicial)

(Anil G. Shakkarwar)
Member (Technical)

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