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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 06/02/2017

To
Appellant as per address in table below
Respondent as per address in table below

Final Order No. A/70143/2017-SM[BR] dated 20/01/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 129-A(4) of the Customs Act, 1962.

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	C/53574/2014	**Amit Industries Unit Of Amit Industries Pvt Ltd** 7d, Bigjos Tower, Netaji Subhash Place, Pitampura, DELHI DELHI 110034
		Name and Address of Respondent
2		C.C.E. & S.T.-Ghaziabad 202...WING A C.G.O. COMPLEX-II,KAMLA NEHRU NAGAR, GHAZIABAD, UTTAR PRADESH-201002

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Copy To
3Advocate(s) / Consultant(s):

SH. AKARSH GARG
Associates
B-5/92, Basment Safdarjung Enclave, New Delhi110029

4 Bar Association, CESTAT, Allahabad

5 Director Publications, Customs, Excise. I.P. Estate, Delhi

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

12 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

13 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

14 C.D.R. 15 Office Copy ~~16 Guard File~~

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

REGIONAL BENCH : ALLAHABAD
COURT No. 2

APPEAL No. C/53574/2014-CU[SM]

(Arising out of Order-in-Appeal No. GZB-EXCUS-000-APP-265 to 266-2013-14 dated 28/03/2014 passed by Commissioner of Central Excise & Customs (Appeals), Ghaziabad)

M/s Amit Industries Unit of Amit Industries Pvt. Ltd. **Appellant**

Vs.

Commissioner of Customs, Ghaziabad **Respondent**

Appearance:

Shri Akarsh Garg, Advocate. for Appellant
Shri Pawan Kumar Singh, Superintendent (AR). for Respondent

CORAM:

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing & Date of Decision : 20/01/2017

FINAL ORDER NO....70143/2017........

Per: Anil G. Shakkarwar

The present appeal is filed by the appellant, M/s Amit Industries Unit of Amit Industries Pvt. Ltd., against Order-in-Appeal No. GZB-EXCUS-000-APP-265 to 266-2013-14 dated 28/03/2014 passed by Commissioner of Central Excise & Customs (Appeals), Ghaziabad.

2. The brief facts of the case are that the appellants imported goods "Secondary/Defective CRGO Silicon Electrical Steel Strips" classified under CTH – 72261100 (hereinafter referred to as **"the imported goods"**) and presented the Bills of Entry dated 20/08/2013 & 27/08/2013. They also

self-assessed the imported goods. The Original Authority did not agree with the Assessable Value claimed in the said Bills of Entry and enhanced the same. The appellants paid Customs duty on the enhanced value and preferred appeal before Commissioner (Appeals). The appellant contended before the ld. Commissioner (Appeals) that the said enhancement was not in agreement with provisions of Section 14 of Customs Act, 1962 and also the Assessing Authority did not give any reasons for enhancement of value declared by them in the said Bills of Entry. Further, they contended that that Original Authority also did not give reasons for not accepting the transaction value declared by them. The ld. Commissioner (Appeals) decided the appeal through impugned Order-in-Appeal No. GZB-EXCUS-000-APP-265 to 266-2013-14 dated 28/03/2014 & rejected the appeal. Aggrieved by the said impugned Order-in-Appeal the appellant is before this Tribunal.

3. The appellant has contended that the ld. Commissioner (Appeals) as failed to appreciate that the Original Authority has reassessed the goods for its value without passing any speaking order or communicating the reasons for rejection of declared transaction value. They, further, contended that the ld. Commissioner (Appeals) has misconstrued their contention and decided the issue by going beyond the facts and ignoring the submissions on record and further going with the passing of the said impugned Order-in-Appeal.

4. Heard the ld. Counsel for the appellant who has contended that the Original Authority has not passed any speaking order, did not give opportunity to the appellant to present their case before enhancing the value and therefore the order passed by the Original Authority is not tenable in law and now the Order-in-Original has merged with Order-in-Appeal and that the Order-in-Appeal is also not tenable in law.

5. Heard the ld. D. R. who has supported the impugned Order-in-Appeal.

6. Having considered the rival contentions and on perusal of record, I find that the Original Authority has enhanced the value of the good imported without giving any opportunity to the appellant to present their case. I, therefore, set aside the impugned Assessment Order & Order-in-Appeal and remand the matter back to the Original Authority with a direction to give opportunity of presenting the case to the appellant and pass reasoned order for coming to the conclusion for passing a particular order. The appellants are directed to submit the copy of this order to the Original Assessing Authority within 30 days after receipt of copy of this order. The Original Assessing Authority shall give opportunity of presenting the case to the appellant within 30 days from the date on which copy of this order is presented by the appellant in the office of Original Assessing Authority. Thereafter, within 30 days the Original Assessing Authority shall pass orders.

7. In result, with these directions appeal is allowed by way of remand. The appellant shall be entitled to consequential relief, if any, in accordance with law.

(Dictated and pronounced in Court)

-Sd/-
(ANIL G. SHAKKARWAR)
Member(TECHNICAL)

Tiwari

प्रमाणित प्रति / Certified True Copy
9.2.17
सहायक पंजीकार / Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण / (C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद 211001
38, M. G. MARG, Allahabad-211001