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REGISTERED / AD

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

Dated: 15/01/2018

To

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

Final Order No. C/A/70166/2018-CU[DB] dated 09/01/2018

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/70231/2016	**J S Designers Ltd** B-109,swasthya Vihar DELHI DELHI 110092
		Name and Address of Respondent
2		C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307

3Advocate(s) / Consultant(s):

Pradeep Jain, (Advocate)
370-371/2, FIRST FLOOR,
SAHI HOSPITAL ROAD,
JANGPURA,
NEW DELHI,
DELHI
110014

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, Opp ICICI Bank of Defence Colony 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 Second Folder Copy 17 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. 1

APPEAL No.C/70231/2016-CU[DB]

(Arising out of Order-in-Appeal No. NOI-CUSTM-000-APP-0145-15-16 dated 04/11/2015 passed by Commissioner of Central Excise & Customs (Appeals), Noida)

M/s JS Designers Ltd. — **Appellant**

Vs.

Commissioner of Customs, ICD Dadri (Noida) — **Respondent**

Appearance:

Written submission,	for Appellant
Shri Mohammad Altaf, Assistant Commissioner (AR),	for Respondent

CORAM:

Hon'ble Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing	:	05/01/2018
Date of Decision	:	23/01/2018

FINAL ORDER NO.-70166/2018..........

Per: Anil G. Shakkarwar

The present appeal is directed against Order-in-Appeal No. NOI-CUSTM-000-APP-0145-15-16 dated 04/11/2015 passed by Commissioner of Central Excise & Customs (Appeals), Noida.

2. The brief facts of the case are that the appellants presented 3 shipping bills on 18.09.2013 and one shipping bill on 19.09.2013 at ICD Dadri for export of 'Readymade

Garments, 100% Cotton P/L Boys Pants and declared value of the consignment in said four shipping bills which totals to Rs.3,87,47,128/-. The shipping bills were under the claim of drawback. It appeared to revenue that the market value of the consignment was inflated by the exporter. Therefore, a show cause notice dated 11.03.2014 was issued wherein the appellant was called upon to show cause as to why value of the subject goods declared by the appellant should not be rejected and why it should not be reduced and why drawback amount should not be reduced and why the said goods should not be confiscated and penalty should not be imposed. The appellant contested the issue before the Original authority. The appellant submitted that the market enquiry was conducted without their presence and therefore, not reliable and they requested for cross examination of authorized representatives of the business concerns with whom said enquiries were made. They submitted that they would submit their final reply after the cross examination sought for. The issue was decided through Order-in-Original dated 31.12.2014 without allowing the cross examination by original authority where the value of the said goods was reduced from Rs.3,87,47,128/- to Rs.62,53,756/- and accordingly admissible drawback amount was also reduced from Rs.23,13,360/- to Rs.4,75,285/-. Further, the goods were confiscated and redemption fine of Rs.12,50,000/- was imposed. Further, penalties were also imposed. Aggrieved by the said order, appellant preferred appeal before the learned Commissioner (Appeals). The learned Commissioner (Appeals) did not interfere with the said Order-in-Original dated 31.12.2014. Aggrieved by the said Order-in-Appeal, appellant is before this Tribunal.

3. The appellant submitted a written submission. In the written submission appellant has submitted that the goods were found to be correctly declared and that the value was not inflated. Appellant further stated that at page No.129-137 of appeal paper book copies of the documents establishing all remittances having been duly received are available. Appellants also stated in the said written submission that the appellant was a star export house and was in the business of export for the last more than 10 years.

4. Heard the learned A.R. who has submitted that the case is related to over valuation of export goods. On enquiry from the bench, the learned A.R. has submitted that export proceeds in respect of goods in question have been realized.

5. Having considered the rival contentions and on perusal of records it is noticed that the market enquiry of the value of goods was conducted in India whereas the goods were consigned for Dubai and the value said goods would fetch ~~is~~ in Dubai was not enquired. Further, since the export proceeds have been realized the declared value is found to be correct.

Therefore, we set aside the impugned Order-in-Appeal and as a consequence related Order-in-Original dated 31.12.2014 does not exist in law. Further, we hold that the appellants are entitled for consequential relief, as per law.

7. In above terms, by setting aside the impugned Order-in-Appeal, Appeal is allowed.

(Pronounced in Court on-09/01/2018)

Sd/-
(Archana Wadhawa)
Member (Judicial)

Sd/-
Anil.G. Shakkarwar
Member(Technical)

akp