

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi**

COURT NO. IV

DATE OF HEARING/DECISION : 20/11/2017.

**Customs Stay Application Nos. 50886 of 2017 in Appeal
No. 51679 of 2017 with No. 50905 of 2017 in Appeal No.
51701 of 2017**

[Arising out of the Order-in-Appeal No. CC (A)/CUS/D-II/ICD/TKD/570-583/2017 dated 27/07/2017 passed by The Commissioner of Customs (Appeals), New Custom House, New Delhi.]

CC, New Delhi (ICD, TKD, I&G)

Appellant

Versus

M/s Nanak Handloom

Respondent

Appearance

Shri R.K. Manjhi, Authorized Representative (DR)– for the appellant

None – for the Respondent.

**CORAM: Hon'ble Shri S.K. Mohanty, Member (Judicial)
Hon'ble Shri B. Ravichandran, Member (Technical)**

Final Order No. 58080-58081/2017 Dated : 20/11/2017

Per. S.K. Mohanty :-

Heard both sides.

2. Revenue has filed these stay applications, seeking stay of operation of the impugned orders passed by the learned Commissioner (Appeals), New Custom House, New Delhi. The contention of Revenue is that the Commissioner (Appeals) has no

power to remand the matter back to the Adjudicating Authority and he has to decide the issue by himself.

3. We find that in this case, the learned Commissioner (Appeals) has remanded the matter to the Original Authority with a direction to comply with the requirement of Section 17 (5) of the Customs Act, 1962, on the ground that while enhancing the value, he had not passed speaking order as contemplated in the statute. Since, there is no order on merits and learned Commissioner (Appeals) has remanded the matter to the proper officer for passing the speaking order under Section 17 (5) *ibid*, we are of the view that such order does not suffer from any infirmity. Even otherwise, this Tribunal has the power to remand the matter to the lower authorities.

4. Therefore, after setting aside the impugned orders, we remand the matter to the Original Authority for speaking under as contemplated under Section 17 (5) *ibid*.

5. The appeals are disposed of in above terms. The stay applications are disposed of.

(Order dictated and pronounced in the open court.)

(S.K. Mohanty)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

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