**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI**
**PRINCIPAL BENCH, COURT NO. I**

**Customs Appeal No. 53499 of 2014**

[ Arising out of Order-in-Appeal No. CC(A)CUS/ICD/182/2014 dated 31.03.2014 passed by the Commissioner of Customs (Appeals), New Delhi ]

**Commissioner of Customs** **Appellant**
**New Delhi**

Vs.

**Jai Durga Rubberised Fabrics** **Respondent**
**India Pvt. Ltd.**

Appearance:

**Shri R K Majhi, DR for the Appellants**
**Shri Pradeep Jain, Advocate for the Respondent**

**CORAM:**
**Hon'ble Mr. Justice (Dr.) Satish Chandra, President**
**Hon'ble Mr. V. Padmanabhan, Member (Technical)**

Date of Hearing/ Decision: 18.1.2018

**FINAL ORDER NO.50285 /2018**

**Per: Justice (Dr.) Satish Chandra**:

The present appeals are filed against Order-in-Appeal No. CC(A)CUS/ICD/182/2014 dated 31.03.2014.

2. Brief facts of the case are that against Bill of Entry dated 1.11.2011, the appellant has imported the coaxial cable of grades. The department is of the view that value of the item was declared on lower side, so the matter was referred to Govt. approved Valuer. On

the basis of report of the approved Valuer dated 29.11.2011, demand of Rs. 29,66,805/- has been made along with penalties. But Commissioner (Appeals) has accepted the value declared by the appellant. Being aggrieved, department has filed the present appeal.

3. With this background, we heard Shri R K Majhi and Shri Pradeep Jain, learned representatives of the parties and gone through the material available on record.

4. After hearing both the parties and on perusal of the record, it appears that the imported goods were in semi-finished condition and same were not available in the retail market. The market inquiry was made out in the prevailing market price and Government approved Valuer in his valuation report dated 29.11.2011 submitted his report based on weight components of the constituent materials of the said semi-finished co-axial cables.

5. But on the other hand, Commissioner (Appeals) has accepted the value on the basis of NIDB data. The respondent has also filed a copy of VAT return where the value was declared and the same support the value at the time of return. From the Record, it appears that the Chartered Engineer certified that appellants have imported a semi-finished goods in terms of prevailing international price of the material for the purpose of reducing the value. The said Chartered Engineers was never cross examined. But the Commissioner

(Appeals) has accepted the value on the basis of NIDB data of the same product.

6. In view of the above, the order passed by the Commissioner (Appeals), which is based on NIDB data is not maintainable.

7. In the result, appeal filed by the Revenue, is dismissed.

(Dictated and pronounced in the open Court)

**( V. Padmanabhan )**
**Member (Technical)**

**(Justice (Dr.) Satish Chandra)**
**President**

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