CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
<u>HYDERABAD</u>

REGIONAL BENCH – COURT NO – I

Customs Appeal No. 30226 of 2016

(Arising out of Order-in-Appeal No. HYD-CUS-000-APP-145-15-16 dated 29.01.2016 passed by Commissioner of Customs & Central Excise (Appeals) Hyderabad)

M/s Agarwal Foundries (P) Ltd **Appellant**
5-4-83, 2nd Floor, TSK Chambers Opp Ranigunj,
Bus Depot, M.G. Road, Secunderabad,
Hyderabad

VERSUS

Commissioner of Customs **Respondent**
Hyderabad-I Commissionerate
Kendriya Shulk Bhawan,
L.B. Stadium Road, Basheerbagh,
Hyderabad

WITH

Customs Appeal No. 30229 of 2016

(Arising out of Order-in-Appeal No. HYD-CUS-000-APP-146-15-16 dated 29.01.2016 passed by Commissioner of Customs & Central Excise (Appeals) Hyderabad)

M/s Agarwal Foundries (P) Ltd **Appellant**
5-4-83, 2nd Floor, TSK Chambers Opp Ranigunj,
Bus Depot, M.G. Road, Secunderabad,
Hyderabad

VERSUS

Commissioner of Customs **Respondent**
Hyderabad-I Commissionerate
Kendriya Shulk Bhawan,
L.B. Stadium Road, Basheerbagh,
Hyderabad

AND

Customs Appeal No. 30231 of 2016

(Arising out of Order-in-Appeal No. HYD-CUS-000-APP-147-15-16 dated 29.01.2016 passed by Commissioner of Customs & Central Excise (Appeals) Hyderabad)

M/s Agarwal Foundries (P) Ltd **Appellant**
5-4-83, 2nd Floor, TSK Chambers Opp Ranigunj,
Bus Depot, M.G. Road, Secunderabad,
Hyderabad

VERSUS

Commissioner of Customs **Respondent**
Hyderabad-I Commissionerate
Kendriya Shulk Bhawan,
L.B. Stadium Road, Basheerbagh, Hyderabad

APPEARANCE

Shri R. Murlidhar, Adv for the Appellant.
Shri A.V.L.N. Chary, Authorised Representative for the Respondent.

CORAM: HON'BLE Ms SULEKHA BEEVI C.S. MEMBER (JUDICIAL)
HON'BLE MR. P. VENKATA SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER No./30696-30698/2019

DATE OF HEARING: 19.06.2019
DATE OF DECISION: 19.06.2019

[ORDER PER: P. VENKATA SUBBA RAO)

All these three appeals are filed by the appellant against impugned orders-in-appeal No. HYD-CUS-000-APP-145-15-16, HYD-CUS-000-APP-146-15-16, HYD-CUS-000-APP-147-15-16 dated 29.01.2016.

2. The appellant imported pig iron from various overseas traders for use in manufacture of billets. The declared value of pig iron varied from USD 229 per MT to USD 300 per MT. These values were rejected by the assessing officer who enhanced the value to USD 500 per MT based on the data available with the NIDB. NIDB is the data of the customs department which gives values of various commodities based on various transaction values of different goods. The question which falls for consideration is whether the invoice value can be rejected and the duty can be charged as per NIDB data without any specific evidence that the invoice values do not reflect actual transaction value. This issue was decided in respect of the same assessee vide Final Order No. A 30143-30156/2018 dated 29.01.2018. It has been held that the NIDB data can be a guideline for the customs to arrive at the value of the goods but the NIDB data cannot be applied directly unless the value given therein falls within the parameters of identical goods

or similar goods. Relying on the decisions in the cases of Topsia Estates Pvt Ltd Vs CC (Import-Seaport) Chennai [2015(330 ELT 799 Tri- Che), CC New Delhi Vs Nath International [2013(289)ELT 305 (Tri-Delhi) , Impex Steel & Bearing Co. Vs CC Delhi-IV [2014(302)ELT 464 (Tri Del)] AND Eicher Tractors Ltd VS CC Mumbai [2000(122)ELT 321 (SC)] it has been decided that the department cannot reject the declared value and assess the goods as per the NIDB data.

3. We find that the issue in the present three appeals is identical to the aforesaid decision of this Bench and we find no reason to deviate from the same. Accordingly we set aside the impugned orders and allow the appeals of the appellant. Appeals are allowed and the impugned orders are set aside with consequential relief, if any.

(Order pronounced in open court on 19/06/2019)

(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

(P. VENKATA SUBBA RAO)
MEMBER (TECHNICAL)

Neela reddy