IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI
COURT No. I

APPEAL No. C/566/09

(Arising out of Order-in-Original No. 50/2009-CC(Imp.),JNCH dated 6.3.2009 passed by Commissioner of Customs (Imports), Raigad)

Garva Enterprise **Appellant**

Vs.

Commissioner of Customs (Import), Nhava Sheva **Respondent**

Appearance:

Shri Vipin Jain, Advocate, with Shri Roshil Nichani, Advocate, for appellant
Ms. Trupti Chauhan, Assistant Commissioner (AR), for respondent

CORAM:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Raju, Member (Technical)

Date of Hearing: 8.3.2018
Date of Decision: 8.3.2018

ORDER No. A/85474/2018

Per: Ms. Archana Wadhwa

The issue in the present appeal relates to the valuation of the stock lot of printing paper imported by the appellant. Inasmuch as there were usable papers in the said stock lot to the extent of around 50%, the Revenue entertained a view that the value declared by the appellant is on the lower side. Accordingly, the same was enhanced resulting in confirmation of differential duty of Rs.2,10,389/- approximately along with confiscation of the goods and imposition of penalties.

2. On going through the impugned order of the Commissioner, we find that he has referred to the NIDB data for redetermining the assessable value. Apart from the fact that the goods were admittedly stock lot goods and as such there can be no available price of contemporaneous goods even in NIDB data, we find that NIDB data cannot be made the sole basis for rejection of the transaction value. In terms of import of stock lot goods, admittedly the price is a negotiated price and agreed upon by the importer and the supplier. The same has to be first rejected by the Customs authority by production of evidences which are positive and cogent. There being no such evidence in the present case to discard the transaction value, the Revenue's contention of NIDB data cannot be allowed to be justifiable. Reference can be made to the Tribunal's decisions in the case of *Venture Impex Pvt. Ltd. vs. CC(I&G), New Delhi – 2016 (338) ELT 759 (Tri.-Del.)* and *Kelvin Infotech Pvt. Ltd. vs. CCE&ST, Meerut – 2015 (316) ELT 146 (Tri.-Del.)* and upheld by the Hon'ble Supreme Court reported as *2016 (339) ELT A291 (SC)*.

3. In view of the above, we find no merits in the Revenue's stand. Accordingly, the impugned order is set aside and the appeal is allowed with consequential relief to the appellant.

(Pronounced in court)

(Raju)
Member (Technical)

(Archana Wadhwa)
Member (Judicial)

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