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

APPEAL Nos. C/340 & 341/10

(Arising out of Orders-in-Appeal No. 525 (Gr.I)/2009 JNCH/MP-154 dated 30.9.2009 and No. 457 (Gr.I)/2009 JNCH/IMP-102 dated 26.8.2009 passed by Commissioner of Customs (Appeals), Nhava Sheva)

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

Vs.

Nico Extrusion Pvt. Ltd. **Respondent**

Appearance:

Shri C. Singh, Assistant Commissioner (AR), for appellant
None 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/85470-85471/2018

Per: Ms. Archana Wadhwa

Being aggrieved with the order passed by the Commissioner (Appeals), Revenue has filed the present appeal.

2. We have heard Shri C. Singh, Assistant Commissioner (AR). Nobody appeared for the respondent.

3. As per facts on record, the respondent imported zinc skimmings at a declared value of US$ 484.20 per MT. The assessing officer enhanced the same to US$ 613.52 per MT.

4. The said assessment order was challenged before the Commissioner (Appeals) who observed that no valid reasons have been given by the assessing officer to enhance the value. He further observed that the appellant had been importing the goods for the last number of years at the same negotiated price which was the declared value. Without rejecting the transaction value, it was not fair on the part of the Revenue to enhance the same. The appellate authority also observed that there was not a single contemporaneous evidence of comparable import noticed by the Custom House and as such the value enhancement was unjustified. He accordingly set aside the same. Hence the present appeal by the Revenue.

5. Admittedly, the quantity imported by the respondent was a bulk quantity and they had entered into a negotiated price with their foreign supplier for huge quantity of the goods. There is also no evidence on record to show that the value entered by the importer with the supplier of the goods is not the correct value. In such a scenario, we agree with the learned Commissioner (Appeals) that the value enhancement was not on the basis of any concrete evidence. As we find no infirmity in the impugned order, the Revenue's appeals are rejected.

(Pronounced in court)

(Raju)
Member (Technical)

(Archana Wadhwa)
Member (Judicial)

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