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

Appeal No. C/710/11

(Arising out of Order-in-Appeal No. 334(Gr.III)/2011 (JNCH) dated 30.06.2011 passed by the Commissioner of Customs (Appeals), Nhava Sheva).

Commissioner of Customs (Import), Nhava Sheva	Appellant

Vs.

M/s Kavyavlon Impex Pvt. Ltd.	Respondent

Appearance:

Shri Chatru Singh, AC (AR)	for Appellant
None	for Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MR. S. SRIVASTAVA, MEMBER (TECHNICAL)

Date of Hearing: 20.06.2018

Date of Decision: 20.06.2018

ORDER NO. **A/86905 / 2018**

Per: Dr. D.M. Misra

None present for the respondent despite notice. Heard the learned AR for the Revenue and perused the records.

2. Learned AR Shri Chatru Singh, Asstt. Commissioner for the Revenue submitted that the issue involved in the present appeal relates to determination of assessable value of imported 100% Viscose/Reyon Embroidery, Thread (Raw White) where the

declared value was between US$ 4.00 per kg to US $ 4.52 per kg. Initially these goods were assessed provisionally and later it was finally assessed taking into account the contemporaneous import price @ US $ 5.00 per kg. Aggrieved by the said assessment order, they filed an appeal before the learned Commissioner (Appeals). The learned Commissioner (Appeals), in the impugned order observed that while rejecting the transaction value, the adjudicating authority has not supplied the relied upon Bills of Entry and invoices, despite the fact that earlier the adjudicating authority was specifically directed by order dated 12.5.2009 to supply these documents to the appellant. It is his observation that non supply of such comparable Bills of Entry/invoice, the basis on which the transaction value has been rejected, resulted into violation of principles of natural justice. Consequently, he has set aside the impugned order and allowed the appeal.

3. The learned AR for the Revenue vehemently argued that the learned Commissioner (Appeals) erroneously allowed the appeal observing that non-supply of these documents is resulted into violation of principles of natural justice, therefore, the order is unsustainable in law. He prays that the matter may be remanded to the adjudicating authority with a direction to supply these documents relating to contemporaneous import, the basis on which the transaction value of the imported goods was rejected.

4. We find force in the contention of the learned AR for the Revenue inasmuch as the transaction value of the imported goods cannot be rejected without sound reasoning and basis. Even though the adjudicating authority in the order, referred to

contemporaneous import of similar goods, however, he had not provided the relevant invoices mentioned in para 2 of the impugned order. Therefore, the adjudicating authority is directed to supply the Bills of Entry/invoices relating to contemporaneous import to the respondent and thereafter decide the matter afresh. The impugned order is set aside and the appeal is allowed by way of remand to the adjudicating authority.

(Operative portion of the order pronounced in Court)

(S. Srivastava) **Member (Technical)**	**(Dr. D.M. Misra)** **Member (Judicial)**

Sinha