IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI

APPEAL NO: C/155/2011

[Arising out of Order-in-Appeal No. 29(Gr.IV)/2011(JNCH)/ IMP-18 dated 24/01/2011 passed by Commissioner of Customs (Appeals), Mumbai – II.]

Sahiba Fabrics Ltd. … ***Appellant***

versus

Commissioner of Customs
Nhava Sheva ***…Respondent***

Appearance:

None for appellant

Shri Manoj Kumar, Assistant Commissioner (AR) for respondent

CORAM:

Hon'ble Shri C J Mathew, Member (Technical)
Hon'ble Shri Ajay Sharma, Member (Judicial)

Date of hearing: 24/08/2018
Date of decision: 06/09/2018

ORDER NO: A/87272 / 2018

Per: C J Mathew

M/s Sahiba Fabrics Ltd had imported 10870 kgs of goods with the declared value of ₹ 42,69,017/- against bill of entry no. 678881/ 15.09.2009 by claiming classification under heading no. 7607 2090 of the First Schedule to the Customs Tariff Act, 1975. On examination at the docks and drawal of samples which were reported upon by the Deputy Chief Chemist, the classification of the goods was altered to heading no. 3212 1000 of the First Schedule to the Customs Tariff Act, 1975 as ‘stamping foil’. Subsequently the importer produced its own test results which were not accepted. The original authority, in addition to altering the assessment for recovery of ₹ 2,47,473/-, confiscated the goods while allowing the same to be redeemed on payment of ₹ 12,00,000/-. Penalty of ₹ 6,00,000/- was also imposed under section 112(a) of Customs Act, 1962. The first appellate authority confirmed the order of the lower authority leading to this appeal.

2. Appellant contends that the first appellate authority had failed to take into consideration various submissions made by them and submitted that these very grounds are now in the appeal before us. Insisting that the foil imported by them is made of aluminium layered by polyester on one side it is claimed that their declaration was correct. Appellant also challenges the partial reliance on the report of Deputy Chief Chemist in rejecting their advice to classify under chapter 39 of the First Schedule of the Customs Tariff Act, 1975 while accepting the composition of the material.

3. None appeared for appellant.

4. Heard Learned Authorised Representative.

5. On a perusal of the order of the first appellate authority, it is seen that the appellant has not appreciated that the findings in the impugned order cover all the grounds pleaded then by the appellant. It is evident that the 'aluminium foils' are made out of aluminium plates whereas impugned imports consists of a coating of aluminium which can hardly be called 'aluminium foil'. The appellant is not in a position to controvert the visual evidence of the impugned goods being imported with the labels 'stamping foil' as unearthed during examination.

6. In view of the above, we find no flaw in the conclusions drawn in the impugned order. Accordingly, we dismiss the appeal.

(Pronounced in Court on 06/09/2018)

(Ajay Sharma)	**(C J Mathew)**
Member (Judicial)	***Member (Technical)***

**/a280831080509*