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

Appeal No. C/819/2011

(Arising out of Order-in-Appeal No. 194/MCH/DC/SVB/2011 dated 19.09.2011 passed by the Commissioner of Customs (Appeals), Mumbai-I).

M/s Etam Future Fashion Pvt. Ltd.	Appellant

Vs.

Commissioner of Customs (import), Mumbai	Respondent

Appearance:

Shri Mehul Jivani, C.A.	for Appellant
Shri Ramesh Kumar, AC (AR)	for Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MR. C.J. MATHEW, MEMBER (TECHNICAL)

Date of Hearing: 15.10.2018

Date of Decision: 15.10.2018

ORDER NO. **A/87715 / 2018**

Per: Dr. D.M. Misra

This is an appeal filed against Order-in-Appeal No. 194/MCH/DC/SVB/2011 dated 19.09.2011 passed by the Commissioner of Customs (Appeals), Mumbai-I.

2. At the outset, learned C.A. for the appellant submits that the learned Commissioner (Appeals) has not decided the issue on merit, but rejected their appeal on the ground of non-production

of relevant documents/evidences. He submits that the learned Commissioner (Appeals) has not recorded any finding on the Joint-Venture agreement, the subject matter of dispute. Hence, he prayed that the matter may be remanded to the learned Commissioner (Appeals) to decide the issue afresh after taking into consideration the relevant agreement and other documents on the question of loading of the assessable value of the imported goods with 1% of the value on account of Marketing and Technical Knowhow and 1% on account of Trade Mark license.

3. We find that the learned Commissioner (Appeals) has not discussed the issue in detail nor recorded any finding on the issues raised by the appellant in their grounds of appeal disputing the addition of 1% of the value on account of Marketing and Technical Knowhow and 1% on account of Trade Mark license to the assessable value. Thus, in the interest of justice, the impugned order is set aside and the appeal is remanded to the learned Commissioner (Appeals) to decide the issue afresh after taking into consideration various evidences on record, the joint venture agreement and the pleas raised by the appellant in this regard.

4. Appeal is allowed by way of remand.

(Dictated and pronounced in Court)

(C.J. Mathew)
Member (Technical)

(Dr. D.M. Misra)
Member (Judicial)

Sinha