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

APPEAL NO: C/305/2011

Arising out of:	Order-in-Original No. 21/2011/CC(I),2011 (JNCH) dated 21/02/2011.
Passed by:	Commissioner of Customs (I), JNCH, Nheva Sheva.

	Appellants – Represented by:
Minex Metallurgical Co. Ltd.	Shri Arnab Roy, Advocate with Shri Abhishek Naik, C.A.
versus	
	Respondent – Represented by:
Commissioner Customs(I), Nava Sheva	Shri B. Kamle, Assitant Commissioner (AR)

Date of hearing	**24/10/2018**
Date of pronouncement	**11/01/2019**

CORAM

Hon'ble Shri Ajay Sharma, Member (Judicial)
Hon'ble Sanjiv Srivastava, Member (Technical)

ORDER NO: A/85066 / 2019

Per: Ajay Sharma

The present Appeal has been filed by the Appellant from the impugned order dated 21.02.2018 passed by the Commissioner of Customs (Import), JNCH, Nhava Sheva by which the Learned Commissioner rejected the declared value under Section 12(1) of Customs Valuation (determination of value of imported goods) Rules, 2007 read with Section 14 of the Customs Act, 1962.

2. During the course of hearing learned Counsel for the Appellants drew our attention to the amendment dated 14.10.2010 made in sales contract dated 29.07.2010 by which the quantity has been reduced to 12000 kgs and final destination of import has also been changed to Nhava Sheva Port. He further submitted that in the original sales contract dated 29.07.2010 the quantity was mentioned as 20000 kgs whereas the final destination was ICD, Nagpur. He also submitted that without looking into the said amendment the learned Commissioner passed the impugned order while observing that the Purchase Order and the Sales Contract bear final destination as ICD, Nagpur and since the said documents do not bear the reference to the present consignment, there are sufficient reasons to doubt the truth and accuracy of the value declared in relation to the imported goods passed on the said Purchase Order/Sales Contract. Therefore, he rejected the declared value under Section 12(1) of Customs Valuation (determination of value of imported goods) Rules, 2007 read with Section 14 of the Customs Act, 1962. According to him, had the learned Commissioner looked into the said amendment dated 14.10.2010 then he would not have passed the impugned order. The Learned Authorised Representative on behalf of the Revenue, on the other hand, reiterated the findings recorded in the impugned order and submitted that the amendment dated 14.10.2010 was not brought to

the notice of the learned Commissioner.

3. Be that as it may, we are of the view that the amendment dated 14.10.2010 has a bearing on the issue involved and therefore without going into the merits of the matter, we remand the matter back to the learned Commissioner to decide it afresh, after looking into all the documents produced by the Appellants and in particular the amendment dated 14.10.2010 and also after hearing the Appellants on all the issues/points.

4. The Appeal is therefore allowed by way of remand.

(Pronounced in Court on 11/01/2019)

(Sanjiv Srivastava)
Member (Technical)

(Ajay Sharma)
Member (Judicial)

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