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

APPEAL NO: C/150/2012

[Arising out of Order-in-Appeal No: 620(Gr.IV)/2011(JNCH)/IMP-539 dated 20th October 2011 passed by the Commissioner of Customs (Appeals), Nhava Sheva, Mumbai-II.]

For approval and signature:

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

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	:	Yes
2.	Whether it should be released under Rule 27 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	:	Yes
3.	Whether Their Lordships wish to see the fair copy of the Order?	:	Seen
4.	Whether Order is to be circulated to the Departmental authorities?	:	Yes

Magppie Exports (P) Ltd … ***Appellant***

versus

Commissioner of Customs (Import)
Nhava Sheva ***…Respondent***

Appearance:

None for appellant

Ms Trupti Chavan, Assistant (AR) for respondent

CORAM:

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

Date of hearing:	**11/02/2019**
Date of decision:	**20/03/2019**

ORDER NO: A/85542 / 2019

Per: C J Mathew

In this appeal, issue in dispute is the valuation of goods imported against bill of entry no. 4040752/11.07.2011 claimed to be 'secondary/defective cold rolled stainless steel coils' which, on examination, was found to be 'damaged with notched edges.'

2. The appellant had claimed classification under heading no. 7226 9210 of the First Schedule to the Customs Tariff Act, 1975 for the goods, valued at ₹ 37,81,546.12 and benefit of notification no. 21/2002-Cus dated 1st March 2002 at serial no. 207. As the goods were found to be not 'ex-stock grade' but 'secondary and defective', benefit of this notification was sought to be denied. Furthermore, value of goods of ascertained differential weight of 107 kgs was also sought to be included in the assessable value for recovery of differential duty of ₹ 7,91,894/-. The goods were held as liable to confiscation but allowed to be redeemed on payment of fine of ₹ 8,00,000 and penalty of ₹ 3 lakhs was imposed under section 112 of Customs Act, 1962. The first appellate authority upheld the order

considering the fine and penalty to be reasonable.

3. Learned Authorised Representative submits that the grounds of appeal raised before the Tribunal are substantially the same as those rejected by the first appellate authority.

4. As the issue lies in a narrow compass of appropriateness of rejection of grounds and as the appellant appears disinclined to prosecute the appeal, we dispose it off on the basis of records.

5. It is seen from the records that the nature of the defect has been brought out in the examination report and that the declared value is far lower than that against which prime goods are normally imported. It would, therefore, appear that the mis-description was resorted to avail the benefit of lower rate of duty conferred by the exemption notification. Without any challenge to the physical examination of the goods, the consequences are not deniable. We do not find any such challenge that has not been examined by the lower authorities.

6. In view of the above, we find no reason to entertain the appeal which is dismissed.

(Pronounced in Court on 20/03/2019)

(Ajay Sharma)
Member (Judicial)

(C J Mathew)
Member (Technical)

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