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

APPEAL NO: C/407/2012

[Arising out of Order-in-Appeal No: 178(Group VA)/2012(JNCH)/ IMP-151 dated 30th March 2012 passed by the Commissioner of Customs (Appeals), 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

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Chunilal Prabhudas & Co (Bombay) Pvt Ltd … ***Appellant***

versus

Commissioner of Customs (Import)
Nhava Sheva, Mumbai – II …***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: 20/02/2019
Date of decision: 20/02/2019

ORDER NO: A/85501 / 2019

Per: C J Mathew

This appeal lies against order-in-appeal no. 178(Group VA)/ 2012(JNCH)/IMP-151 dated 30th March 2012 of Commissioner of Customs (Appeals), Mumbai – II which has upheld the order of the lower authority that the 'NACHI' brand of ball bearings imported *vide* bill of entry no. 791277/17.08.2010 by the appellant, M/s Chunilal Prabhudas & Co (Bombay) Pvt Ltd, was, in relation to five of the models, undervalued with consequent enhancement to US $ 1,18,784.19 under rule 9 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

2. None appeared for the appellant. We take up this matter for disposal despite the absence of representation by the appellant in view of the limited grounds of appeal and as the matter had been adjourned

several times owing to absence of such representation.

3. We find that the differential duty arising from the re-valuation is ₹72,000/-. We also find that the appellant has questioned the propriety of rejection of the declared value on the basis of ascertainment from the supplier. Under rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, the assessing officer is competent to direct the production of manufacturer's invoice or raise other grounds on which the value may be discarded. The inability or unwillingness of the importer to produce evidence to the contrary suffices to discard these values. Hence, we find no impropriety.

4. It is also the submission of the appellant that the rules pertaining to contemporaneous imports should have been adopted. In accordance with the scheme of valuation of imported goods, with the discarding of the declared value, an obligation devolves on the assessing officer to apply the various options provided for in Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 sequentially. Failing to find any support from identical or similar goods imported contemporaneously, the assessing officer resorted to 'best judgment' under rule 9 of the said Rules. It was open to the appellant to provide evidence of any contemporaneous imports that would have favoured them. There is also no challenge to the 'best

judgment' adopted by the assessing officer.

5. In the light of the above, we find that the appeal lacks merit and is, therefore, dismissed.

(Pronounced in Court)

(Ajay Sharma)
Member (Judicial)

(C J Mathew)
Member (Technical)

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