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

APPEAL NO: C/85748/2013

[Arising out of Order-in-Original No: 127/2012 dated 26th November 2012 passed by the Commissioner of Customs (Import), Nhava Sheva.]

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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Narender Pal Sahdev … ***Appellant***

versus

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

Appearance:

Shri Akhilesh Kauysia, Advocate for appellant

Ms Trupti Chavan, 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/85502 / 2019

Per: C J Mathew

This appeal of M/s Narender Pal Sahdev lies against imposition of penalty of ₹ 6,00,000/- under section 112(a) of Customs Act, 1962 in order-in-original no. 127/2012 dated 26th November 2012 of Commissioner of Customs (Import), JNCH, Nhava Sheva. The proceedings were initiated in notice issued to the appellant along with others, *viz*, Shri SK Dhawan, Shri Rajeev Seth, M/s Essfo Impex Pvt Ltd and M/s Ess Dee Trading Company, and the appeals, barring that of present appellant, were disposed off by the Tribunal, *vide* order no. A/86428-86431/16/CB dated 2nd February 2016 in appeal no. C/85981, 85982, 85993 and 85851/2013, setting aside the order of the original authority.

2. The proceedings arose from a dispute on valuation in which the Tribunal found that details of contemporaneous import produced by the importers to justify the correctness of the declaration had not been considered by the adjudicating authority. Holding that confiscation

under section 111 of Customs Act, 1962 would not sustain in those circumstances, the penal consequences under section 112 could not but fail.

3. As the confiscation of the impugned goods itself was invalidated by the Tribunal, the penalty against the present appellant fails. We set aside the impugned order and allow the appeal.

(Pronounced in Court)

(Ajay Sharma)
Member (Judicial)

(C J Mathew)
Member (Technical)

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