

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL, MUMBAI**

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 86397 of 2018

(Arising out of Order-in-Original No. SG/MISC-301/2017-18 SIIB(I) JNCH dated 21.03.2018 passed by the Commissioner of Customs (Import), SIIB, JNCH, Nhava Sheva)

M/s Sambhav Rocks India Pvt. Ltd.

Ronak, 461, 8th Main Vijaynagar, Between 34d and 4th Coss lane
Bengluru - 560040

.... Appellant

Versus

Commissioner of Customs (Import)

SIIB, JNCH, Nhava Sheva, Uran, Raigad,
Maharashtra - 400707

.... Respondent

Appearance:

Shri Anil Balani, Advocate for the Appellant

Ms. Trupti Chavan, AC, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

HON'BLE MR. S. SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO.A/88523/2018

Date of Hearing: 17.12.2018

Date of Decision: 17.12.2018

Per: S.K. Mohanty

Heard both sides and perused the records.

2. The appellant in this case, has assailed the impugned communication dated 21.03.2018 addressed by Shri Sudarshan Meena, Deputy Commissioner of Customs, SIIB (I), JNCH to his counterpart at Group IV, JNCH, Nhava-Sheva in context with

provisional assessment of goods as per Bill of Entry No. 5399785 dated 28.02.2018. Contents in the said communication are as under:

"This office is investigating a case of undervaluation of Granite Segment imported by M/s. Sambhav Rocks India Pvt. Ltd. vide Bills of Entry 5399785 dated 28.02.2018.

The investigation in this case is under progress, meanwhile the provisional assessment of the goods namely segments (M.S. with synthetic diamond powder coating) may be allowed at Rs.120/- per Kg, provided completion of all Customs formalities as prescribed. Final quantification of value/duty may be done after completion of the investigation. Differential duty may be taken in the form of BG and Bond equivalent to the value of the goods. Further, future assessment of the subject goods imported by M/s Sambhav Rocks may be done in the same manner.

This issues with the approval of Commissioner of Customs, SIIB (I), JNCH."

3. Section 129A of the Customs Act, 1962 provides the manner and procedure for filling of appeal before the Appellate Tribunal. Sub-section (1)(a) in the said section provides that any person aggrieved by a decision or order passed by the Commissioner of Customs as an adjudicating authority, may appeal to the Appellate Tribunal. In the present case, the impugned letter dated 21.03.2018 has been addressed by one officer to the other officer within the department. Copy of such letter has also not been endorsed to the appellant, enabling it to file appeal before the Tribunal. Further, on perusal of the contents in the said letter, it transpires that the same cannot be considered as a decision or order passed by the Commissioner as an adjudicating authority. Thus, appeal against the said letter dated 21.03.2018 cannot be maintainable before the Tribunal in terms of the mandates provided under Section 129A *ibid*.

4. In view of above, we do not find any substance in the appeal filed by the appellant. Accordingly, same is dismissed.

(Operative portion of the order pronounced in court)

(S.K. Mohanty)
Member (Judicial)

(S. Srivastava)
Member (Technical)

Hemant