

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL, WEST ZONAL BENCH AT MUMBAI**

REGIONAL BENCH - COURT NO. 02

Customs Appeal No. 766 of 2011

(Arising out of Order-in-Appeal No. 366 & 367 (Group VB)/2011 (JNCH) Imp-307 & 308 dated 08.08.2011 passed by Commissioner of Central Excise (Appeals), Mumbai II)

M/s Marino Oversea

.....Appellant

Sant Namdev CHS Bldg. No.21,
Room No.974, GTB Nagar,
Mumbai - 400 037

VERSUS

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

.....Respondent

Jawaharlal Nehru Custom House, Post Uran,
District Raigad, Sheva - 400 707

WITH

Customs Appeal No. 767 of 2011

(Arising out of Order-in-Appeal No. 366 & 367 (Group VB)/2011 (JNCH) Imp-307 & 308 dated 08.08.2011 passed by Commissioner of Central Excise (Appeals), Mumbai II)

Shri Naresh Pandya

.....Appellant

Block No.501, Chandra Bhushan
Plaza, Agra Road, Shahjanand Chowk,
Nr. Raymjond Showroom, Park View,
Kalyan - 421301

VERSUS

**Commissioner of Customs
(Import), Nhava Sheva-II**

.....Respondent

Jawaharlal Nehru Custom House, Post Uran,
District Raigad, Sheva - 400 707

Appearance:

Shri Lalit Channa, Advocate for the Appellant

Shri Ramesh Kumar, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. A/88544-88545/2018

Date of Hearing: 12.12.2018

Date of Decision: 12.12.2018

Per: S.K. MOHANTY

These appeals are directed against the impugned order dated 08.08.2011 passed by the Commissioner of Customs (Appeals), Mumbai-II.

2. Briefly stated, the facts of the case are that the officers of DRI examined one consignment of Mobile Phone and Watch Accessories imported in the name of M/s Marine Overseas, the appellant herein. The appellant had declared the value of Rs. 3,98,476.10 (CIF) in the Bill of Entry No. 945253 dt. 10.10.2007. A market inquiry was conducted in presence of Shri Santosh Pandey, which revealed that the goods were grossly undervalued. The consignment was placed under seizure. In the statement dt. 13.12.2007 recorded under summon of the other appellant Shri Naresh Pandya, he agreed with the prices mentioned in the market inquiry report. On the basis of investigation, the department initiated show cause proceedings against both the appellants, which were adjudicated vide order dt. 14.05.2010, wherein the declared value was rejected and re-determined at Rs. 13,86,611.36 under Section 14 of the Customs Act, 1962 read with Rule 7 of the Customs Valuation (Determination of Price of Imported Goods) Rule, 2007. The adjudication order also confiscated the goods imported vide Bill of Entry dt. 10.10.2007 under Section 111(m) *ibid* and an amount of Rs. 3,50,000/- was imposed as redemption fine in lieu of confiscation under Section 125 *ibid*. The amount of Rs.4,56,413.05 was also confirmed as Customs duty on the re-determined value under Section 28(1) *ibid*. Besides,

the impugned order has imposed penalty of Rs. 1,35,000/- under Section 112(a) *ibid* on M/s. Marine Overseas and Rs. 40,000/- on Shri Naresh Pandya under Section 112(b) *ibid*. On appeal, Ld. Commissioner (Appeals) vide the impugned order dt. 08.08.2011 has upheld the adjudged demands confirmed on the appellants.

3. Heard both sides and perused the records.

4. We find from the case records that the appellant Shri Naresh Pandya in his statement dt. 13.12.2007, recorded under summon had admitted that the declared value was only 20 % of the actual value of the goods imported by the appellant M/s Marine Overseas. Further, Shri Naresh Pandya had also categorically admitted the correctness of the value ascertained in the market inquiry. we also find that the Ld. Commissioner (Appeals) has recorded specific observations in support of upholding the adjudged demands confirmed on the appellants. No specific averments were made in the appeal memorandum to demonstrate that confirmations of adjudged demands on the appellants are not sustainable under the law. Thus, we do not find any merit in the appeals filed by the appellants.

5. Therefore, the impugned order sustains and the appeals filed by the appellants are dismissed.

(Operative part of the order pronounced in the open court)

(S.K.Mohanty)
Member (Judicial)

(Sanjiv Srivastava)
Member (Technical)

