FAX : 0532-2400149

REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 09/11/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71046-71047/2016-EX[DB] dated 25/10/2016

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the Central Excise and Salt Act, 1944.

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/3467/2006	SUPERIOR FABRIC 14/37 GWALTOLI, KANPUR
2	E/3468/2006	MOHD.ISHAK ANSARI AUTH. SIGN M/S SUPERIOR FABRICS, 14/37, GWALTOLI, KANPUR
		Name and Address of Respondent
3		C.C.E. & S.T.-Kanpur 117/7...SARVODYA NAGAR, KANPUR, UTTAR PRADESH-208005
4		C.C.E. & S.T.-Kanpur 117/7...SARVODYA NAGAR, KANPUR, UTTAR PRADESH-208005

Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s):

PRADEEP JAIN, (ADVOCATE)
370-371/2, FIRST FLOOR,
SAHI HOSPITAL ROAD, JANGPURA,
NEW DELHI,
110014

6 Bar Association, CESTAT, Allahabad

22-11-16

7 Director Publications, Customs, Excise. I.P. Estate, Delhi

8 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

9 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

10 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

11 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

12 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

14 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

15 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

16 C.D.R. 17 Office Copy 18 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

Appeal No.E/3467 & 3468/2006-EX[DB]

Arising out of Order-in-Original No.21/Comm./M.P./2006 dated 31.07.2006 passed by Commissioner Central Excise, Kanpur.

For approval and signature:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	: No
2.	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	: Yes
3.	Whether His Lordship wishes 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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M/s Superior Fabric
Mohd. Ishak Ansari

...APPELLANT(S)

VERSUS

Commissioner of Central Excise & S. Tax, Kanpur

...RESPONDENT (S)

APPEARANCE:

Shri Tarun Chawla, Advocate for the Appellant (s)
Shri Rajeev Ranjan, Joint Commr. (A.R.) for the Department

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

DATE OF HEARING & PRONOUNCEMENT: 25.10.2016

FINAL ORDER NO.- 71046 - 71047/2016

Per Mr. Anil G. Shakkarwar:

The present two appeals are arising out of common impugned Order-in-Original No. 21/Comm./M.P./2006 dated 31.07.2006 and therefore, they are taken together for decision.

2. The brief facts of the case are that M/s Superior Fabrics (M/s SF) were engaged in the manufacture of Synthetic Web Equipments. They classified the said goods under Chapter Sub Heading No.6307.90 of the First Schedule to Central Excise Tarrif Act, 1985. It appeared to Revenue that the said goods are correctly classifiable under Chapter Sub Heading No.4202 of the said schedule. Synthetic Web Equipment consist of following five items : (i) pack with aluminum frame (ii) Haversack (iii) Pouches Ammunition (iv) Frog Bayonet and (v) Belt Waist. The rate of duty for the goods under Chapter Sub Heading No.6307.90 was 8.16%, whereas the goods classifiable under Chapter 4202 attracted duty of Rs16.32%. Therefore, M/s SF were issued with a show-cause-notice dated 03.05.2006 proposing to classify Synthetic Web Equipment under Tariff Item No.4202 19 90 as travel goods and there was a proposal to demand differential Central Excise Duty amounting to Rs.37,09,887/- + Education cess of Rs.74,198/-. The issue was adjudicated through Order-in-Original No.21/Commr./MP/2006 dated 31.07.2006. The Original Authority has confirmed the demand by classifying the said goods under Tariff Item No.4202 19 90 and imposed equal penalty.

Through the said order-in-Original, personal penalty of Rs.1 lakh was imposed on Mohd. Ishak Ansari, authorized signatory. Aggrieved by the said order, the appellants are before this Tribunal.

3. The learned counsel for the appellant brought to the notice of this Bench, final Order issued by this Tribunal in the case of MKU Pvt. Ltd. Vs. CCE, Kanpur reported at 2013 (295) E.L.T. 488 (Tri.-Del.). This Tribunal in the said Final Order has held that classification of Pack with aluminum frame, Haversack, Pouches Ammunition, Frog Bayonet is under Sub Heading No.4202 and the classification of Belt Waist is under 63.07.

4. Heard the Ld. DR for Revenue who has supported the impugned Order-in-Original.

5. We have considered the rival contentions. We find that the Final Order of this Tribunal in the case of MKU Pvt. Ltd. Vs. CCE, Kanpur is squarely applicable in the present case. We therefore, following the said Final Order by this Tribunal, hold that "Pack with aluminum frame", "Haversack", "Pouches Ammunition" and "Frog Bayonet" are classifiable under Sub Heading 4202 of Schedule to Central Excise Tariff Act, 1985 and Belt Waist is classifiable under Sub Heading No.63.07 of the said Schedule. We find that there was no justification in imposing penalties on both the appellants. We, therefore, set aside the penalty imposed on both the appellants and remand the matter back to the Original

Authority to re-quantify the duty on the basis of classification as held by us above after hearing the appellants. Thus, we set aside the impugned order and remand the matter back to Original Authority. The appeals are allowed by way of remand.

(Dictated and Pronounced in the open Court)

Sd/-
(ANIL G. SHAKKARWAR)
MEMBER (TECHNICAL)

Sd/-
(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

Mishra