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: 02/03/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70235-70236/2017-EX[DB] dated 22/02/2017

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/2347/2009	**DERPA INDUSTRIAL POLYMERS PVT. LTD.** 56 & 56A, RURAL INDUSTRIAL ESTATE, LONI, GHAZIABAD.
2	E/2348/2009	**SH. PAWAN AGARWAL, MD OF** M/S DERPA INDUSTRIAL POLYMERS PVT. LTD. 56 & 56A, RURAL INDUSTRIAL ESTATE, LONI, GHAZIABAD.
		Name and Address of Respondent
3		-C.C.E. GHAZIABAD C.G. O. Complex-II, Kamla Nehru Nagar, Ghaziabad 201302
4		-C.C.E. GHAZIABAD C.G. O. Complex-II, Kamla Nehru Nagar, Ghaziabad 201302

Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s):

V. Lakshmi Kumaran, ALD
3/1A/3 OPP AUTO
SALES,Above the Office Of
Blue Dart/DHL Courier,
COLVIN ROAD, LOHIA
MARG ALLAHABAD-211001

6 **Anurag Mishra**
117/10 SK APARTMENT
SARVODAYA NAGAR,
KANPUR,
UTTAR PRADESH

7 Bar Association, CESTAT, Allahabad

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

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

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

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

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

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

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

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

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

17 C.D.R. 18 Office Copy 19 Guard File

Asstt. Registrar

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

Appeal Nos. : E/2347 & 2348/2009-EX[DB]

Arising out of OIO No. 04/Commr./Ghaziabad/2009 dated 14.05.2009 passed by Commissioner of Central Excise, Ghaziabad.

I. Derpa Industrial Polymers Pvt. Ltd. (E/2347/2009)
II. Sh. Pawan Agarwal (E/2348/2009)

...APPELLANTS

VERSUS

I. Commissioner, Central Excise, Ghaziabad
II. Commissioner, Central Excise, Ghaziabad

...RESPONDENTS

APPEARANCE

Shri Hrishikesh & Shri Anurag Mishra, Advocates for the appellants.
Shri Rajiv 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 : 22. 02. 2017
FINAL ORDER NO.- 70235-70236/2017

Per Mr. Anil G. Shakkarwar :

The present two appeals are arising out of common impugned OIA No. 04/Commr./Ghaziabad/2009 dated 14.05.2009 passed by Commissioner of Central Excise, Ghaziabad.

2. The brief facts of the case are that the appellants were engaged in the manufacture of Synthetic Web Equipments and were classifying the said goods under Chapter Sub Heading No. 6307.90 of the First Schedule to Central Excise Tariff Act, 1985. The appellants were

claiming exemption under Notification No. 30/2004-CE dated 09.07.2004 and were clearing the said goods at Nil rate of duty. It appeared to Revenue that the said goods were correctly classifiable under Tariff Item No. 4202 1990 of the said schedule. Therefore, the appellants were issued with a show cause notice dated 04.05.2006. The appellants were called upon to show cause as to why the said goods viz. Synthetic Web Equipment should not be classified under Tariff Item No. 4202 1990 as travel goods and why differential Central Excise duty amounting to Rs. 72,00,367/- should not be demanded and recovered from them and penalty should not be impose under Rule 25 of Central Excise Rules and penalty should not be imposed on them under Section 11AC of Central Excise Act,1944 and why appellants should not pay interest on short paid Central Excise Duty. The said show cause notice also had a proposal for imposition of personal penalty on Shri Pawan Agarwal. The said show cause notice was adjudicated through impugned Order-in-Original dated 14.05.2009. The learned Original Authority has held that the goods under question were classifiable under Tariff Item No. 4202 1990. Further, he confirmed the demand of duty of Rs. 72,00,367/- under Section 11A of Central Excise Act, 1994. He further ordered to appropriate the entire duty demanded as already paid by the appellants through Challans dated 17.04.2007. The Original Authority ordered the appellants to pay interest on the duty confirmed at the appropriate rate and imposed equal penalty under Section 11C of Central Excise Act, 1944. Shri Pawan Agarwal was imposed with penalty of Rs. 10,00,000/- under Rule 26 of Central Excise Rules,

2002. Aggrieved by the said order appellants are before this Tribunal.

3. Heard the learned counsel for appellants. The learned counsel has submitted that the issue is already settled in respect of M/s. Superior Fabric by this very Bench through Final Order No. 71046-71047/2016 dated 25.10.2016. They have submitted that they no more contest the classification and accept the classification decided through the said Final Order dated 25.10.2016. He argued that since the dispute was regarding interpretation equal penalty was not justified on the appellants and personal penalty was also not justified. He further prayed to set aside the penalties imposed through impugned Order-in-Original.

4. Learned D.R. has agreed that the issue is covered by the said Final Order dated 25.10.2016.

5. Having considered the submissions from both the sides, we find that we have already decided through above stated Final Order, the issue related to classification of Synthetic Web Equipment. Through the said Final Order it was decided that Synthetic Web Equipment was classifiable under Chapter Sub Heading No. 4202 of First Schedule to Central Excise Tariff Act, 1985. Following the earlier decision of this Bench, we hold that the goods under question i.e. Synthetic Web Equipment are classifiable under Sub Heading No. 4202 of the said Schedule. We also note that the entire duty demanded through the said show cause notice has been deposited before the adjudication. We further hold that Belt Waist which is also subject matter of the same show cause notice is classifiable under Sub Heading No. 63.07 of the

same Schedule as held by us through said Final Order dated 25.10.2016. We further ordered that for subsequent period the classification decided through this Final Order shall be adhere to. Since the matter was related to interpretation, we set aside the equal penalty imposed on appellants and personal penalty imposed on the other appellant. We direct the appellants to pay interest as required by law. In the above terms we allow Appeal No. 2348/2009 fully and allow Appeal No. 2347/2009 partly.

(Pronounced and dictated in the open Court)

-Sd/-
(ANIL CHOUDHARY)
Member (JUDICIAL)

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

Patel/-

प्रमाणित प्रति / Certified True Copy
07/03/2017
सहायक पंजीकार / Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण / (C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001