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: 19/09/2017

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. A/71089/2017-SM[BR] dated 12/09/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 129-A(4) of the Customs Act, 1962.

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	C/84/2012	**K L Concast P Ltd** 25th Mile Stone,g T B S Road GHAZIABAD UP
		Name and Address of Respondent
2		C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307

--

Copy To
3Advocate(s) / Consultant(s):

Rajesh chibber
FA-9, KAVI NAGAR,
GHAZIABAD,
UP

4 Bar Association, CESTAT, Allahabad

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

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

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

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

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

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

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

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

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

14 C.D.R. 15 Office Copy 16 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. II

APPEAL No.C/84/2012-CU[SM]

(Arising out of Order-in-Appeal No.13/Commissioner/2011 dated 14/12/2011 passed by Commissioner of Customs, Noida)

M/s K.L. Concast Pvt. Ltd. **Appellant**

Vs.

Commissioner of Customs, C.E. & S.T., Noida **Respondent**

Appearance:

Shri Rajesh Chhibber, Advocate for Appellant
Shri Pawan Kumar Singh, Supdt (AR), for Respondent

CORAM:

Hon'ble Mr. Ashok Jindal, Member (Judicial)

Date of Hearing : 12/09/2017
Date of Decision : 12/09/2017

FINAL ORDER NO. 71089/2017

Per: Ashok Jindal

The appellant is in appeal against the impugned order for imposition of redemption fine, penalty and demand of differential duty.

2. The brief facts of the case are that the appellant placed order for import of heavy Melting Scrap and declared them as HMS Scrap. Said goods were examined by the Customs Authorities and it was found that apart from scrap it includes old and used pipes having length more than 5 ft. Therefore, it was concluded by adjudicating authority that the appellant has mis-

Ashok

declared the description of goods. Therefore, value of the impugned goods were enhanced and accordingly, differential duty was demanded and the goods held liable for confiscation and penalty was also imposed. Aggrieved from the said order, the appellant is before me.

3. Heard the learned Counsel for the appellant, who submits that in this case the adjudicating authority has admittedly held that goods on examination were found to be scrap as well as old and used pipes having length more than 5 ft, in these circumstances, the impugned order is to be set aside.

4. On the other hand learned A.R. has reiterated the findings of the impugned order.

5. Heard the parties and considered the submissions.

6. I find that in this case, there was import of Heavy Melting Scrap and goods were found to be scrap and old and used pipes having length over 5 ft. As pipes were having length over length of 5 ft, as per ISRI they cannot be considered as scrap. However, in the instant case admittedly, the pipes in question were old and used and therefore, these pipes are in the nature of scrap only, as the same cannot be used as prime. In these circumstances, the declaration of the goods by the appellant is correct and therefore, no differential duty be

demanded from the appellant. Moreover, as the goods are scrap, therefore, neither goods are liable for confiscation nor any penalty is warranted.

7. In view of the above, I hold that the impugned order has no merits, the same is set aside.

8. In result, the appeal is allowed with consequential relief, if any.

(Dictated in Court)

Sd/-

(Ashok Jindal)

Member(Judicial)

akp