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: 05/12/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. C/A/71871/2017-CU[DB] dated 27/11/2017

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/CROSS/50744/2015	C/54763/2014	Commissioner CUSTOMS Central EXCISE and SERVICE TAX-Noida C-56/42,,,SECTOR 62, NOIDA, UTTAR PRADESH 201307

Name and Address of Respondent

Sucharu International
Ground Floor, 14, Kalidas
Patitundi Lane,,,
KOLKATA
,700026

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

A. P. Mathur
167, TAGORE TOWN,
Allahabad,
Uttar Pradesh

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, Opp ICICI Bank of Defence Colony 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 Second Folder Copy 17 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I
C/CROSS/50744/2015
APPEAL No.C/54763/2014-CU[DB]

(Arising out of Order-in-Appeal No. NOI/EXCUS/000/APPL/90/14 dated 29/04/2014 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Noida)

Commissioner of Customs, C.E. & S.T., Noida Appellant

Vs.

M/s Sucharu International Respondent

Appearance:

Shri Mohammad Altaf, Assistant Commissioner (AR) for Appellant
Shri A.P. Mathur, Advocate for Respondent

CORAM:

Hon'ble Mr. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 27/11/2017
Date of Decision : 27/11/2017

FINAL ORDER NO.-70823/2017..........

Per: Anil G. Shakkarwar

The present appeal filed by Revenue is arising out of the Order-in-Appeal No.NOI/EXCU/000/APPL/90/14 dated 29.04.2014 passed by the Commissioner (Appeals), Customs, Central Excise and Service Tax, Noida.

2. The brief facts of the case are that respondents exported Indian Brown Basmati Rice Pusa-1121 through Shipping Bill No.4438709 dated 06.07.2011. The export of the consignment was allowed. Further, representative samples were drawn by

the shed officers and were sent to directorate of Marketing and Inspection, Regional Agmark Laboratory, New Delhi which was duly approved by DGFT. The test report stated that the samples did not confirm to standards prescribed in Basmati Rice (Export) Grading and Marketing Rule, 1979. The test report further certified that the samples confirmed to the requirement of length and length/breadth ratio, as per DGFT Notification No.55(RE-2008)/2004-2009 dated 05.11.2008. The Order-in-Original dated 30.06.2012 was passed through which it was held that though samples confirmed the requirement of said Notification dated 05.11.2008 since they did not confirm to the Basmati Rice (Export) Grading and Marketing Rules, 1979, the Export of the said goods was prohibited and ordered for confiscation of the goods exported valued at Rs.12,38,100/-. Aggrieved by the said order, respondent preferred appeal before Commissioner (Appeals). Learned Commissioner (Appeals) through order dated 20.11.2012 set aside the said Order-in-Original dated 30.06.2012. Aggrieved by the said order, revenue preferred appeal before this Tribunal. This Tribunal through Final Order dated 22.11.2013 remanded the matter back to the learned Commissioner (Appeals) to examine the contents of laboratory report with the facts and circumstances of the case as well as the goods exported and pass appropriate order. In compliance to the said directions, impugned Order-in-Appeal was passed wherein the learned Commissioner (Appeals) has held that the goods declared as India Basmati Rice Pusa-1121 is a verity of non-basmati Rice and the same was permitted for export under the said Notification dated 05.11.2008 read with Notification No.57/2009-2014 dated 17.08.2010 and also that the test report certified that the average length of the grains were 8.67mm, ratio of length to breadth was 4.38 which was more than specified grain length of 6.61mm and ratio of length to breadth 3.5 as prescribed under the said Notification dated 05.11.2008, as amended by the said Notification No.57/2009-2014. Aggrieved by the said order, Revenue preferred present appeal before this Tribunal.

3. The ground of appeal by Revenue is that the parameter of length on length to breadth ratio as notified in DGFT through said Notification dated 05.11.2008 would be the additional parameter for judging the consignment as Basmati and that to decide whether the verity of rice is Basmati or not the result of the test in the laboratory should be taken into consideration.

4. Heard the parties and perused the records.

5. After hearing both sides and on perusal of records, we find that the parameters laid down under the said Notification dated 05.11.2008 read with Notification No. 57/2009-2014 dated 17.08.2010 have been met with as discussed by the learned Commissioner (Appeals) in the impugned Order-in

Appeal. We, therefore, do not find any merits in the grounds raised by Revenue. We also note that the directions of this Tribunal through the said Final Order have been complied by the learned Commissioner (Appeals).

6. Therefore, we uphold the impugned Order-in-Appeal dated 29.04.2014 and dismiss the appeal filed by Revenue. The Respondent shall be entitled for consequential relief, as per law. Cross Objection also stands disposed of.

(Dictated in Court)

Sd/-
(Archana Wadhawa)
Member (Judicial)

Sd/-
Anil.G. Shakkarwar
Member(Technical))

प्रमाणित प्रति/Certified True Copy

05/01/18

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