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: 03/11/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71297/2017-SM[BR] dated 24/10/2017

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/70046/2016	**Commissioner of CUSTOMS(PREVENTIVE)-Lucknow Prev** HALL NO.3... 5TH FLOOR, KENDRIYA BHAWAN...SECTOR-H, ALIGANJ, LUCKNOW, UTTAR PRADESH
		Name and Address of Respondent
2		Tulsyan Brothers Barhni Bazar,, SIDDHARTHNAGAR ,UP

Copy To

3Advocate(s) / Consultant(s):

KARUNESH PRATAP SINGH
ADVOCATE
CHAMBER NO.-3,SEAT NO.-5,OLD BUILDING,HIGH COURT,ALLAHABAD-211019

4 Bar Association, CESTAT, Allahabad

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

6 M/s Cemax 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
APPEAL No. C/70046/2016-CU[SM]

(Arising out of Order-in-Appeal No. 10/Cus/APPL/ALLD/2015 dated 20/10/2015 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Allahabad)

Commissioner of Customs (Prev.), Lucknow **Appellant**

Vs.

M/s Tulsyan Brothers **Respondent**

Appearance:

Shri Gyanendra Kumar Tripathi, Assistant Commissioner (AR), for Appellant

Shri Karunesh Pratap Singh, Advocate, for Respondent

CORAM:

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

Date of Hearing & Date of Decision : 24/10/2017

FINAL ORDER NO...71297/2017.........

Per: Anil G. Shakkarwar

The present appeal filed by Revenue is directed against Order-in-Appeal No. 10/Cus/APPL/ALLD/2015 dated 20/10/2015 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Allahabad.

2. The brief facts of the case are that the respondent had imported Deshi Ghee falling under Tariff Item No. 04059020 of the Customs Tariff Act, 1975 from Nepal through Land Customs Station, Barhni and filed Bill of Entry No. 65/Imp/LCS/BNY/2015-16 dated 10/05/2015 for clearance of 9765 kg of Shudh Deshi Ghee valued at Rs.20,01,825/-. The said consignment was stored in warehouse at Barhni. Samples of the goods imported were drawn and referred to Food Research & Standardization Laboratory, Kunserwa, Sonauli, District – Maharajganj, which is an extension centre

of Food Research & Standardization Laboratory, Ghaziabad. The test report revealed that the goods did not confirm to the standards laid down. At the request of respondent, one more sample was drawn and sent to Director of Central Food Laboratory, Kolkata on 26/06/2015. The Central Food Laboratory, Kolkata through its letter dated 17/07/2015 has reported that the sample was Sub-standard. Subsequently, the matter was adjudicated through Order-in-Original No. 63/2015 dated 14/08/2015, wherein the Original Authority dropped the proceedings and allowed clearance of the goods. Being aggrieved by the said order, Revenue preferred appeal before Commissioner (Appeals) which was decided through impugned Order-in-Appeal dated 20/10/2015. The grounds of appeal stated that Circular No. 58/2001-Cus dated 25/10/2001 issued by the Central Board of Excise & Customs prescribed that if the product fails the test, the Customs Authorities will ensure that the goods are re-exported out of the country by following the usual adjudication procedure or destroyed as required under the relevant rules. Following the said Circular No. 58/2001-Cus dated 25/10/2001 ld. Commissioner (Appeals) ordered for re-exportation of goods to Nepal by setting aside the said Order-in-Original No. 63/2015 dated 14/08/2015. Being aggrieved by the said order, Revenue is before this Tribunal.

3. The prayer by Revenue is for consideration of matter for ordering confiscation of said goods under Section 111(d) of

the Customs Act, 1962 and to impose penalty on the importer under Section 112 of the Customs Act, 1962.

4. Heard the ld. A.R. for Revenue, who has presented the grounds of appeal and prayer.

5. Heard the ld. Counsel for the respondent, who has submitted that as ordered by the ld. Commissioner (Appeals) the entire consignment of Deshi Ghee, which was subject matter of these proceedings was exported to Nepal.

6. Having considered the rival contentions and on perusal of the facts on record, I find that the order passed by ld. Commissioner (Appeals) is in conformity with Circular No. 58/2001-Cus dated 25/10/2001 issued by the Central Board of Excise & Customs and therefore, I do not find any infirmity in the order passed by ld. Commissioner (Appeals) and therefore, I uphold the impugned Order-in-Appeal dated 20/10/2015 and dismissed appeal filed by Revenue.

(Dictated & Pronounced in Court)

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

Ansari

प्रमाणित प्रति/Certified True Copy
13\11\17
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