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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/71283/2017-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
	C/70190/2017	**Arvind International** 17/3,mathura Road FARIDABAD HARYANA 121002
		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):

DEVASHISH CHAUHAN &
DHRUV GAUTAM,ADVOCATE
516/16A,FARIDABAD,HARYANA

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

APPEAL No. C/70190/2017-CU[SM]

(Arising out of Order-in-Appeal No. NOI-CUSTM-000-APP-982-16-17 dated 18/01/2017 passed by Commissioner of Customs & Central Excise (Appeal-II), Noida)

M/s Arvind International **Appellant**

Vs.

Commissioner of Central Excise, Noida **Respondent**

Appearance:

Shri Dhruv Gautam (Advocate) for Appellant

Shri Sandeep Kumar Singh (Dy. Commr.) AR for Respondent

CORAM:

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

Date of Hearing : 24/10/2017

Date of Decision : 24/10/2017

FINAL ORDER NO. 71283/2017

Per: Anil G. Shakkarwar

Present appeal is directed against Order-in-Appeal No. NOI-CUSTM-000-APP-982-16-17 dated 18.01.2017 passed by Commissioner of Customs and Central Excise, (Appeal-II), Noida.

2. Brief facts of the case are that the appellant filed Bill of Entry No. 3006845 dated 21.10.2015 for clearance of imported Hot Rolled Steel Coils Non Alloy (Width less than 600 MM), with ICD Dadri. The quantity of the goods imported was 100.15 MT and the value of the goods declared was Rs. 19,99,437.49/-. On examination it was found that the goods were having width more than 600 MM. With effect from 02.09.2015 Safeguard Duty was imposed on Hot Rolled Steel Coils (Non Alloy) having width more than 600 MM. Therefore,

the matter was adjudicated through Order-in-Original dated 30.11.2015. The Original Authority ordered confiscation of the said goods. The value of the goods imported was enhanced to Rs. 26,07,000/- and option to redeem was given on payment of fine of Rs. 4 lakhs. Further, the appellant was imposed with a penalty of Rs. 2 lakhs under Section 112 (a) and (b) (ii) of Customs Act, 1962. Further, the Original Authority also ordered the importer to pay Safeguard Duty as payable alongwith applicable interest. Aggrieved by the said order Revenue preferred appeal before Commissioner (Appeals). The learned Commissioner (Appeals) decided the appeal through impugned Order-in-Appeal dated 18.01.2017. The learned Commissioner (Appeals) modified the original order by imposition of penalty under Section 114 A of Customs Act, 1962 in place of penalty imposed under Section 112 of the said Act by Original Authority. Aggrieved by the said order the appellant is before this tribunal.

3. The learned counsel for the appellant who has draw my attention to Column No. 14 of appeal in the proforma CA-3 wherein it is stated that appellant had paid Rs. 13,67,469/- towards duty, Rs. 4 lakhs towards fine, Rs. 2 lakhs towards penalty and Rs. 6,857/- towards interest. He has further submitted that Rs. 2 lakhs penalty was paid through TR-6 Challan dated 27.11.2015 and the other payments were made in two installments on 23.10.2015 and 27.11.2015. He has

further submitted that Order-in-Original was passed on 30.11.2015 and all the payments indicated in said Column No. 14 were made before the date of passing of original order. He has pleaded that the appellant has complied with first proviso and second proviso to Section 114 A of Customs Act, 1962 and, therefore, the appellant is entitled to reduced penalty of 25% as provided under first proviso to Section 114 A of Customs Act, 1962.

4. Heard learned AR who has supported the impugned Order-in-Appeal.

5. Having considered the rival contentions and on perusal of record I find that the appellant has complied with requirements of first and second proviso of said Section 114A. Therefore, I hold that the appellant is entitled for imposition of penalty equivalent to 25% of the duty under first proviso to Section 114 A of Customs Act, 1962. I, therefore, modify the impugned Order-in-Appeal and reduce the penalty imposed under Section 114 A ibid in impugned Order-in-Appeal to 25% of the penalty imposed in said Order-in-Appeal. In above terms the appeal is allow. Appellant shall be entitled for consequential relief as per law.

(Dictated and pronounced in Court)

-Sd/-

(ANIL G. SHAKKARWAR)
Member (TECHNICAL)

प्रमाणित प्रति/Certified True Copy
30/11/17
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

Ankit