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: 13/02/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. C/A/70303-70304/2018-CU[DB] dated 18/01/2018

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/57562/2013	**Commissioner CUSTOMS Central EXCISE and SERVICE TAX-Noida** C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH 201307
2	C/57563/2013	**Commissioner CUSTOMS Central EXCISE and SERVICE TAX-Noida** C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH 201307
		Name and Address of Respondent
3		Wave Industries Ltd 33,community Center,new Friends Colony,, NEW DELHI ,NEW DELHI
4		Wave Industries Ltd 33, Community Center,,New Friends Colony,, NEW DELHI ,DELHI

Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s):

KAPIL VAISH
2nd Floor, Part-a Krishna Janki Palace, 35-c, Rampur Garden, Civil Lines, Bareilly, UP

6 Bar Association, CESTAT, Allahabad

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

8 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

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

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

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

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

13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave. Hyderabad -- 38

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

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

16 C.D.R. 17 Office Copy 18 Second Folder Copy 19 Guard File

Asstt. Registrar

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

APPEAL Nos. C/57562-57563/2013-CU[DB]

(Arising out of Orders-in-Original No. 3-4/Commr./Cus/2013 dated 03 & 21/01/2013 passed by Commissioner of Central Excise & Customs, Noida)

Commissioner of Customs & Central Excise, Noida **Appellant(s)**

Vs.

M/s Wave Industries Ltd. **Respondent(s)**

Appearance:

Shri Pawan Kumar Singh (Supdt.) AR for Appellant(s)
Shri Kapil Vaish (CA) for Respondent(s)

CORAM:

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

Date of Hearing : 18/01/2018
Date of Decision : 18/01/2018

FINAL ORDER NOs.-70303-70304/2018

Per: Ashok Jindal

The Revenue is in appeal against the impugned orders. The facts of the case are that the respondents imported two the consignment of Heavy Melting Scrap.

2. During the course of examination, some locomotive wheels were also found in the consignment around 10% of the total quantity of the consignment. Revenue entertained the view that the value of locomotive wheels is higher, therefore, the respondents was liable to pay duty on the differential

amount of locomotive wheels and heavy melting scrap and also proposed the redemption fine and penalty imposed. The adjudication took place the differential duty on account of locomotive wheels was confirmed, redemption fine of Rs.06 Lakhs & 05 Lakhs respectively and penalty of Rs.02 Lakhs each were also imposed. Against the said order the Revenue is in appeal on the ground that the Adjudicating Authority has not ascertained the correct value of locomotive wheels to arrive for demand of duty and, consequently, to impose redemption fine and penalties on the respondent.

3. Heard the parties and perused the records, we find that the grounds taken by the Revenue does not come with the evidence, how much is the variation in the price and how much is the value of locomotive wheels should be. In the absence of any evidence, the value taken by the Adjudicating Authority cannot be discarded.

4. In that circumstances, we do not find any infirmity with the impugned orders the same are upheld and the appeals filed by the Revenue are dismissed.

(Dictated and pronounced in Court)

Sd/-

Anil G. SHAKKARWAR

(MEMBER TECHNICAL)

Sd/-

ASHOK JINDAL

(MEMBER JUDICIAL)

Ankit

प्रमाणित प्रति/Certified True Copy

.../03/18

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