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: 09/01/2018

To

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

Final Order No. C/A/70096-70097/2018-CU[DB] dated 05/01/2018

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/70115/2016	**A R Fabrics Pvt Ltd** X/1246,first Floor,gali No. 2,rajgarh Colony ,delhi-31 DELHI DELHI
2	C/70116/2016	**Aditya Gupta Director** C/o Uniclear Logistics Pvt Ltd, 12/1,block V, Charmwood FARIDABAD HARYANA
		Name and Address of Respondent
3		C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307
4		C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307

Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s):

Prem Ranjan Kumar,Adv
LGF 6/33, VIKRAM VIHAR,
LAJPAT NAGAR PART-IV,
NEW DELHI,
DELHI
110024

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 AND SERVICE TAX APPELLATE TRIBUNAL,
<u>REGIONAL BENCH : ALLAHABAD</u>

C/70115-70116/16

Arising out of O/A No.NOI-EXCUS-002-APP-0112-15-16 dated 21.10.2015 passed by Commissioner of (Appeals) Central Excise & Customs, Meerut-II.

M/s. A.R. Fabrics Pvt.Ltd.
Aditya Gupta, Director

...APPELLANT(S)

VERSUS

CC, CE & ST, Noida

RESPONDENT (S)

APPEARANCE

Shri Prem Ranjan Kumar, Advocate for the Appellant (s)

Shri Mohd Altaf (Assitt.Commr.)(A.R.) for the Revenue

CORAM:

MRS. ARCHANA WADHWA, HON'BLE(JUDICIAL)
SHRI ANIL G. SHAKKARWAR, MEMBER(TECHNICAL)

<u>DATE OF HEARING/DATE OF DECISION : 05.01.2018</u>

<u>FINAL ORDER NO. 70096-70097/2018.</u>

Per Mrs.Archana Wadhwa :

The challenge in both the appeals, which are being disposed of by a common order, as they arise out of same impugned order, is to the assessable value of the polyester knitted fabrics imported by the appellant. The appellant declared the value of the imported goods as US Doller 1.6 per kg. The same was enhanced by the customs officers to US doller 1.73 per kg.

Inasmuch as enhancement was on the lower side, the appellant accepted the same and cleared the goods on payment of duty on the said enhanced value.

2. Subsequently Revenue entertained a view that such enhancement to US Dollar 1.73 per kg. done by them is not correct inasmuch as the same appellant had imported the same very goods in Delhi and Faridabad where the value was enhanced by the authorities having jurisdiction over Delhi and Faridabad to US Dollar 2.8 per kg. Accoridingly they initiated proceedings against the appellant to further enhance the value to US dollar 2.8 per kg. and to demand differential duty, inasmuch as the goods stand already cleared. Reliance was also placed upon DRI alert Circular dated 09.05.2011.

3. In view of the foregoing the notice stand culminated into an order passed by the authorities below confirming demands and imposing penalties.

4. Apart from contesting that the authorities have no powers or jurisdiction to enhance the assessable value on piecemeal basis, ld.advocate brings to our notice the fact that the enhancement done by the authorities at Delhi stands set aside by Commissioner(Appeals) vide his Order-in-Appeal No.NOI-EXCUS-002-APP-0112-15-16 dated 21.10.2015 and the Revenue's appeal filed thereagainst stands rejected by the Tribunal vide their order dated 14.01.2016. As such he submits that the entire basis for the Revenue to demand the duty is no longer available to them.

5. While agreeing with the ld.Advocate that Customs cannot do the piecemeal enhancement in the assessable value based upon different set of facts at different points of time in respect of the same imports, as it will amount to review of their own earlier order, we in any case find that the issues are no longer res integra and the proceedings in respect

of Delhi and Faridabad having been concluded in favour of the assessee, the impugned orders are also liable to be set aside. We order accordingly and allow both the appeals with consequential relief to the appellant.

(Pronounced and dictated in the open court.)

Sd/-
(Archana Wadhawa)
Member (Judicial)

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

प्रमाणित प्रति/Certified True Copy
08/02/18

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