FAX : 011-26108426 **REGISTERED / AD**

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066
CUSTOMS APPEAL BRANCH

Dated: **19/02/2014**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **C/A/50541/2014-CU[DB]** dated **07/02/2014**

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(CUSTOMS Appeal Branch)

Application	Appeal	Name and Address of Appellant
1	C/418/2009	**ORANGE TOOLS PVT. LTD.** D-63, SOUTH CITY-1, GURGAON-122002
		Name and Address of Respondent
2	C/418/2009	**C.C. NEW DELHI (IMPORT & GENERAL)** NEW CUSTOM HOUSE, NEAR I.G.I. AIRPORT, NEW DELHI 110037.

Other Appellants and Respondents as per Annexure

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

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4 Bar Association, CESTAT, Delhi

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

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, 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 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15

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

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

12 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

13 C.D.R. **14** Office Copy **15** Guard File

Asstt. Registrar(CUSTOMS Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
BENCH-DB

COURT NO.II

Customs Appeal No.C/418/2009-CU[DB]
[Arising out of Order-in-Appeal No.CC(A) Cus./I & G/69/09 dated 23.03.2009 passed by the Commissioner (Appeals) of Central Excise, new Delhi].

M/s.Orange Tools Pvt. Ltd. ...Appellant

Vs.

CC, Delhi ... Respondent

Present for the Appellant : None
Present for the Respondent : Smt. Ranjana Jha, JCDR

Coram: Hon'ble Mr.D.N.Panda, Judicial Member
Hon'ble Mr.Manmohan Singh, Technical Member

Date of Hearing: 07.02.2014

FINAL ORDER NO. 50541/2014 DATED: 07.02.2014

PER: D.N.PANDA

None present for the appellant nor there is any adjournment application.

2. In the absence of appellant assistance of Revenue was taken and also the ground of appeal of the appellant perused. The goods imported by the appellant is stated in para 1.1 of the adjudication order and that does not remain in dispute. The dispute is only of usage of the goods in this case.

3. Revenue found out that the goods imported was not merely GPS but also a tracker which is fitted into a vehicle to know the direction at any point of time and also to receive the data through GPS receiver. The goods so imported had the characteristics of much more than the mere GPS. The system serves the purpose of relaying/ transmitting data about itself, vehicle owner etc. This enables an owner of the vehicle to be aware of the fuel consumption, Mileage, tampering and accidents etc. The goods imported being of such peculiar and special nature, Revenue opined that such goods cannot be imported without license from DGFT being a sensitive equipment. The appellant had not obtained such license from that authority to import.

4. At the customs clearance stage, the appellant also averred that it was not aware of the licensing requirement nor it was knowing the imported goods were restricted goods. It requested the Customs Authority to allow them to re-export the imported goods on the ground of prayed that it will not commit such mistake in future. Customs authority found that not only the goods were mis-declared but also without license. Therefore, confiscation thereof was ordered. That gave rise to further consequence of redemption fine and penalty.

5. Before ld. Commissioner (Appeals), the appellant could not succeed both on merit as well as on the technicality aspect. The licensing requirement could not be pleaded to be irrelevant. Therefore, ld. Commissioner (Appeals) upheld the adjudication order with consequence flowing there from. We

nature and character of
have perused thoroughly the goods imported and also defence led by appellant as to the requirement of the license from DGFT. It was established fact on record that the goods were restricted goods and were subject to licensing regulation. We have also perused the photographs of the goods available in the catalogue submitted by the appellant and forming part of appeal record. We do not find any of the observation of the authorities below to be irrelevant. There is no evidence of innocence of appellant. It was merely a crocodile cry of no importation in future when caught red handed by customs. Therefore there is no other go than to uphold the adjudication finding, conclusion as well as appellate decision. Accordingly appeal is dismissed.

[Dictated & Pronounced in the open Court].

14.2.2014 12/2/2014.

(MANMOHAN SINGH)
TECHNICAL MEMBER

(D.N.PANDA)
JUDICIAL MEMBER

Anita