REGISTERED / AD

FAX : 011-26108426

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

Dated: 04/12/2015

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

Final Order No. C/A/53555-53557/2015-CU[DB] dated 18/11/2015

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/446/2009	**SUN WORLDWIDE,** 2ND FLOOR, OLD RAJINDER NAGAR, NEW DELHI-110060.
2	C/COD/131/2009	C/447/2009	**KAILASH ENTERPRISES,** GL-6, ANSAL BHAWAN, K.G.MARG, NEW DELHI.
3	C/COD/132/2009	C/448/2009	**SHERTON ENTERPRISES,** 88, RANA PRATAP MARKET, KAROL BAGH, NEW DELHI.
			Name and Address of Respondent
4			-C.C. (ICD) NEW DELHI ICD, Tughlakabad, New Delhi 110020.

Other Appellants and Respondents as per Annexure

Copy To
7Advocate(s) / Consultant(s):

Priyadarshi Manish,Adv
437,MATHURA ROAD, (
BEHIND BHOGAL BUS
STOP) JANGPURA , NEW
DELHI-110014
I.P. EXTENSION,
PATPARGANJ,
DELHI

8 Additional Party's Name & Address :

9 Bar Association, CESTAT, Delhi

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

11 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

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

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

14 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15

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

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

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

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

19 C.D.R. 20 Office Copy 21 Guard File

Asstt. Registrar(CUSTOMS Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Order : 18.11.2015

Appeal No. C/446-448/2009-CU(DB)

(Arising out of Order-in-Original No. 57/09, 29-30/09 dated 14.5.2009, 20.3.2009 passed by the Commissioner of Customs, ICD, New Delhi)

For Approval & Signature :

Hon'ble Mr. R.K. Singh, Member (Technical)
Hon'ble Ms. Sulekha Beevi, C.S., Member (Judicial)

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3.	Whether their Lordships wish to see the fair copy of the order?	
4.	Whether order is to be circulated to the Department Authorities?	

M/s Sun Worldwide — Appellant
M/s Kailash Enterprises
M/s Sherton Enterprises

Vs.

CC, New Delhi — Respondent

Appearance:

None - for the Appellant

Shri R. Gupta, A.R. - for the Respondent

Coram : **Hon'ble Mr. R.K. Singh, Member (Technical)**
Hon'ble Ms. Sulekha Beevi, C.S., Member (Judicial)

F. Order No. 53555 - 53557/2015

Per **R.K. Singh :**

Appeals are filed against orders-in-original in terms of which the declared values were rejected and impugned goods were ordered to be confiscated and allowed to be redeemed on redemption fine and penalties were also imposed.

2. ~~The~~ Ld. Counsel contends that although the valuation was accepted by the appellants, he is only contesting the quantum of redemption fine and penalty which is on the higher side and in the circumstances lower redemption fine and penalties should have been imposed. He cited the judgement of CESTAT in the case of ***Nova Office System*** [Final Order No. 54165-54168/2014 dated 15.10.2014] in support of his contention.

2. We have considered the contentions of the appellant. In these cases, the appellants imported second hand photo copier machines which were considered to be undervalued and value was enhanced with the consent of the appellants. It is seen that photo copiers being second hand goods ~~and~~ requires import ~~of the~~ license also. Thus there was violation not only of the import policy which made the goods liable to confiscation under Rule 111(d) of the Customs Act but also of Section 111(m) ibid for mis-declaration of value. In these circumstances fine which works out to about 25% of the reassessed value and penalty which works out to about 12% of the value reassessed cannot be called arbitrary or unreasonable. CESTAT order cited by the appellant is not relevant in the present case~~s~~ as in that case the value enhanced was not found to be

sustainable while in the present case valuation has not been contested by the appellants.

3. In the light of the foregoing, we do not find any merit in the appeals and the same are dismissed.

(R.K. Singh)
Member (Technical)

(Sulekha Beevi, C.S.)
Member (Judicial)

RM