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: **19/08/2014**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **C/A/53206-53208/2014-CU[DB]** dated **07/08/2014**

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/3036/2012	**PARAS AGGARWAL HOSIERY** 772, TAKIA GUJJRAN,MOCHPURA LUDHIANA,PB
2	C/3063/2012	**SHRI INDERJIT KUMAR AUTHORISED SIGNATORY** M/S PARAS AGGARWAL HOSIERY, 772, TAKIA GUJJRAN, MOCHPURA, LUDHIANA, PUNJAB
3	C/3179/2012	**S B FREIGHT LOGISTICS** 4/1406, GALI NO.2, NEAR DCP OFFICE, SHALIMAR PARK, SHAHDARA, DELHI.
		Name and Address of Respondent
4		**NEW DELHI(ICD ITC)** ICD, TUGLAKABAD, NEW DELHI

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Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s):

PRIYADARSHI MANISH,ADV
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6. **MM Tax Law And IPR Consultants,**
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2ND LINE BEACH,
CHENNAI,TAMIL NADU
600001

7. **Piyush Kumar,Adv**
B-25, Lajpat Nagar - III,
New Delhi

8 Bar Association, CESTAT, Delhi

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

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

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

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

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

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

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

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

17 C.D.R. **18** Office Copy **19** Guard File

Asstt. Registrar(CUSTOMS Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
DIVISION BENCH
Court No.2

Appeal No.C/3036,3063 & 3179/2012

(Arising out of OIO No.27/2012 dt.31.8.2012 passed by CC,ICD, TKD, New Delhi)

Prass Aggrawal Hosiery **Appellant**
Shri Inderjit Kumar, Authorised Signatory
S.B.Freight Logistics

Vs.

CC, ICD, TKD, New Delhi **Respondent**

Present for the Appellant: Shri Priyadarsh Manish,Advocate
Ms.Anjali, Avocate and
Ms.Shikha Sapra, Advocate
Present for the Respondent: Ms.Ranjana, Jha, JCDR

Date of hearing/Decision: 07.08.2014

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

FINAL ORDER No.53206 - 53208/2014

PER: D.N.PANDA

The goods in question imported by bill of entry No.5141841 dated 9.11.2011 was declared as Polyester Ladies Stole" under heading **61171090**. Subsequently such classification was changed to heading 62143000. Ld.Authority did not agree with the classification on the ground that the goods fall under CTH 62149060. The objection was that the goods were manmade fibre which also takes within its fold the synthetic fibre. Appellant, on the other hand, contends that . ' ..the goods were of the nature falling under heading 6214 which reads as under:-

Anlal.

6214 Shawls, scarves, mufflers, mantillas, veils and the like
62143000 of synthetic fibres

The goods when further classified, more particularly falling under heading 62143000, suggests that the goods were made of synthetic fibre without manmade fibre. In the absence of enquiry or any cogent evidence, the goods imported cannot be presumed to be made out of manmade fibre and that cannot be classified under the CTH 62149060.

2. Revenue supports the adjudication on the ground that even manmade fibre falls under synthetic fibre, Appellant cannot get advantage of tariff entry 6214.

3. In view of aforesaid controversy, record and tariff entry was examined. It may be stated that the goods in question were no doubt made of synthetic fibre. But there is no evidence to show whether the goods were made out of manmade fibre to bring the same under 62149060. There may be possibility that synthetic fibre may be falling under heading manmade fibre but to establish the same an enquiry should have been done by Revenue. That has not been done. Burden of proof not being discharged by the Revenue, It is difficult to agree with the contention of Revenue that the goods fall under heading 62149060.

4. We make it clear that once misdeclaration of the description of goods is not established, there is no scope to make allegation of misdeclaration of value against the appellant.

5. For the aforesaid reason, all appeals are allowed.

(dictated and pronounced in the open court)

14.8.2014
(MANMOHAN SINGH)
TECHNICAL MEMBER

14/8/2014
(D.N.PANDA)
JUDICIAL MEMBER

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