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: 28/04/2014

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **C/A/51742-51744/2014-CU[DB]** dated **03/04/2014**

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/57528/2013	**COMMISSIONER OF CUSTOMS-NEW DELHI(ICD TKD)** INLAND CONTAINER DEPORT, TUGLAKABAD...ICD, NEW DELHI,
		Name and Address of Respondent
2	C/57528/2013	**HIMANSHU ENTERPRISES** 111, 1ST FLOOR, AZAD MARKET, NEW DELHI

Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s):

HARISH KOHLI
1667, OUTRAM LINES,
G.T.B NAGAR, DELHI
110009

6 Bar Association, CESTAT, Delhi
7 Director Publications, Customs, Excise. I.P. Estate, Delhi

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

12 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
13 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070
14 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38
15 C.D.R. **16** Office Copy **17** 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/57528-57530/2013
(Arising out of OIA No.CC(A)/CUS/ICD/48/2013 dated 21.1.2013 passed by the CC(Appeals), New Delhi)

CC, ICD, TKD, New Delhi **Appellant**

Vs.

Himanshu Enterprises **Respondent**

Present for the Appellant: Shri Rakesh Puri, DR
Present for the Respondent: None

Date of Hearing/Decision: 03.04.2014

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

FINAL ORDER NO. 51742 – 51744/2014

PER: D.N. PANDA

None present for the respondent, despite it was categorically informed on the last date of hearing to the respondent that these appeals shall be disposed without further adjournment. Ld. Counsel for the respondent was well informed that at his request, the matter having been adjourned in the past, no further adjournment shall be granted.

2. Assistance of Revenue was taken today for disposing this appeal. Ld. DR says that Revenue has been prejudiced by liberal order passed in appeal by Commissioner (Appeals) while assessable value of goods was

enhanced by adjudicating authority in the concerned appeals as follows:

Appeal No.	Party Name	Declared	Assessable Value
C/57528/13	Himanshu	17,13,220 8,99,122	19,24,389 10,44,736
C/57529/13	Himanshu	18,39,735 18,68,023	20,50,460 20,72,299
C/57530/13	Himanshu	9,40,318 17,83,485	10,45,500 20,41,322

3. The goods were found to be a mixed lot of worn clothing as per examination report consisting of jacket (Non Winter Session), Children Apparel, Mens Pant, Bed Sheets, Skirt, Curtain, Ladies Blouses, Ladies Pant, Training Wear/Upper/Lower, Muffler, Sweater, T-shirts R/Neck, Cap, Socks, Shirts, Quilt/Blanket, Coat Fleece upper and Silk Dress.

4. Heard Revenue and perused the record.

5. Goods imported were old ad used cloths which are restricted items under Exim policy. Licence or approval of the appropriate authority is required for import of the same. There is no dispute that the goods were restricted goods. But Commissioner (Appeals) reduced redemption fine and penalty for no good reason stated in his order and that rendered the appellate order unsustainable.

6. Adjudication order was examined thoroughly. It appeals that learned Adjudicating authority has applied his mind properly to arrive at the proper assessable value taking into account nature of

goods and provisions of Rule 9 of Customs Valuation (Department of value of imported goods) Rules, 2007. But ld. Commissioner (Appeals) did not consider the basis of valuation adopted by adjudicating authority as advised by SIIB enquiry. Assessable value was determinable in terms of section 14 of Customs Act, 1962 read with the relevant Valuation Rules. Once Adjudicating Authority has adopted proper basis for valuation, it is difficult to disturb the same since appellate authority did not specify any good reason to disturb the same. It is surprising how appellate authority reduced redemption fine and penalty for no good reason stated in his order. Therefore, appellate order is set aside and adjudication order in each case is restored.

5. Revenue's appeals are allowed accordingly.

(Dictated & pronounced in the open court)

24.4.2014	24.4.2014.
(MANMOHAN SINGH)	**(D.N. PANDA)**
TECHNICAL MEMBER	**JUDICIAL MEMBER**

mk