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: **21/02/2014**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **C/A/50641/2014-CU[DB]** dated **12/02/2014**

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/701/2008	**MODIPON LTD.** MODI NAGAR, GHAZIABAD (U.P.)
		Name and Address of Respondent
2	C/701/2008	**C.C. (ICD) NEW DELHI** ICD, TUGHLAKABAD, New Delhi 110020.

Other Appellants and Respondents as per Annexure

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

BIPIN GARG
B-1/1289, A - VASANT KUNJ,
NEW DELHI

--

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/701/2008-CU[DB]
[Arising out of Order-in-Original No.45/2008 dated 25/28.07.2008 passed by the Commissioner of Customs, New Delhi].

M/s.Modipon Ltd. ...Appellant

Vs.

CC, New Delhi ... Respondent

Present for the Appellant : None
Present for the Respondent : Shri V.P.Batra, DR

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

Date of Hearing: 12.02.2014

FINAL ORDER NO. 50641/2014 **DATED: 12.02.2014**

PER: D.N.PANDA

Goods left India under the following Shipping Bills as mentioned in page 1 of the Adjudication order on the dates noted against each:

Sl.No.	Shipping Bill No.	Date
I.	1517015	06.02.2006
II.	1611530	08.02.2006
III.	1652244	11.10.2006
IV.	1662905	14.11.2006

2. Amendment to the above bills came before authority below on 16.04.2008 which was more than two years after first two consignments left and after one and half years in respect of

other two shipping bills. Appellant prays amendment of shipping bills stating change of incentive scheme of export. Law does not permit such belated practice and provision under section 149 of Customs Act, 1962 requires an objective satisfaction of the Customs Authority to entertain any amendment to shipping bill before the goods leave India. We are guided by the decisions in the cases of Terra Films Pvt. Ltd. vs. CC reported in 2011 (268) E.L.T. 443 (Del.) and CC (Seaport-Export), Chennai vs., M/s. Sluzlon Energy Ltd. in Civil Misc. Appeal No.2566 of 2012 to reach to above conclusion since Revenue appeal was allowed by Hon'ble High Court of Madras in that case.

2. We also state that Board has clarified above issue vide Circular No.4/2004-Cus. dated 16.01.2004 in the manner we have concluded by this order.

4. Ld. Commissioner has rightly pointed out that it was not a case of amendment but a case of conversion of shipping bill from one incentive scheme to another category after the goods left India and that too at a belated stage for which appellant has no right to seek such amendment.

[Dictated & Pronounced in the open Court].

20.2.2014
(MANMOHAN SINGH)
TECHNICAL MEMBER

19.2.2014.
(D.N.PANDA)
JUDICIAL MEMBER

Anita