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: 05/05/2014

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **C/A/51878/2014-CU[DB]** dated **28/04/2014**

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/Stay/59747/2013	C/59070/2013	**MOFTWARE INFOTECH PVT LTD** 73/1-19, 2ND FLOOR,YUSUF SARAI YUSUF SARAI MAIN MARKET,NEW DELHI
			Name and Address of Respondent
2		C/59070/2013	**Commissioner of CUSTOMS AIR CARGO(EXPORT)-New Delhi(air Cargo Export)** NEW CUSTOM HOUSE, NEW DELHI,

Other Appellants and Respondents as per Annexure

Copy To

3 Advocate(s) / Consultant(s):

M.K.GUPTA ADVOCATE
B-4/66, SAFDARJUNG ENCLAVE,NEW DELHI,
110029

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.
COURT - II

Application No.C/STAY/59747/2013-CU[DB]
Appeal No.C/59070/2013-CU[DB]
[Arising out of Order-in-Appeal No.CC (A) CUS/361/2013, dated 12.07.2013 passed by C.C.(I & G) (Appeals), New Delhi]

M/s. Moftware Infotech Pvt. Ltd. : ...Appellant

Vs.

C.C., Air Cargo (Export) New Delhi : ... Respondent

Present for the Appellant : **Shri BK Singh, Advocate**

Present for the Respondent : **Shri VP Batra, DR**

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

Date of Hearing : 28.04.2014

FINAL ORDER NO. 51878/2014**, DATED: 28.04.2014**

PER: D.N.PANDA

We are surprised to read the order of the Ld. Commissioner (Appeals), who has not provided the basis of valuation as to whether the value adopted by him conforms to the Customs Violation Rules when he proposed rejection of the transaction value of the import. It is not fair to adopt a percentage of internet figure in adjudication. How the internet value provides basis was not examined by the ld. Commissioner (Appeals). It appears that the order has been passed whimsically and mechanically in violation of basic Rule of Valuations. Therefore, it would be proper to remit the matter back to the ld. Commissioner (Appeals), who should state the reason why the transaction value should be rejectable and re-examine the issue afresh. Once he reaches to a conclusion that the transaction value should be rejected, he should apply appropriate Valuation Rule in accordance with law.

2. Ld. counsel for the appellant says that in case of rejection of transaction value, Rule 7 of Valuation Rules shall apply in the fitness of the circumstances of the case. We are not pre-judging the matter as to the applicability of a particular rule at this stage without the materials being tested. Therefore, Ld. Commissioner (Appeals) confronting the basis to the appellant and also considering the evidences available on record shall resort to valuation according to the Valuation Rules, if the transaction value is not acceptable to him. We reiterate that why the transaction value is not acceptable is to be specifically stated in his order of re-adjudication.

3. In view of our observations and decision above, the stay application and the appeal are disposed of and the ld. Commissioner (Appeals) to issue notice of hearing within a month of receipt of this order to re-hear the matter granting fair opportunity of hearing to the appellant. He shall pass a reasoned and speaking order upon conclusion of hearing.

30.4.2014
(MANMOHAN SINGH)
TECHNICAL MEMBER

29.4.2014.
(D.N.PANDA)
JUDICIAL MEMBER

SSK