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: 11/06/2014

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. C/A/52406/2014-CU[DB] dated 04/06/2014

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/87/2009	**STAINLESS INDIA LTD.** C-237, MIA,BASNI PHASE-II. JODHPUR (RAJ.)
		Name and Address of Respondent
2	C/87/2009	**C.C.(JODHPUR)** HQ at New Central Revenue Building, Statue Circle, C Scheme, Jaipur 302005.

Other Appellants and Respondents as per Annexure

Copy To

3 Advocate(s) / Consultant(s):

Om. P. Agarwal & co.
56, Section - 7, N.P.H Road,
Jodhpur,Rajasthan

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

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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 : 4.6.2014

Appeal No. C/87/2009-Cus.

[Arising out of Order-in-Appeal No. 232-233/DK/CUS/JPR-II/2008 dated 10.12.2008 passed by the Commissioner (Appeals), Customs & Central Excise, Jaipur]

M/s Stainless India Ltd. — Appellants

Vs.

CC, Jodhpur — Respondent

Appearance:

Shri O.P. Agarwal, C.A. - for the appellant

Shri R.L. Meena, A.R. - for the respondent

Coram : **Hon'ble Mr. D.N. Panda, Judicial Member**
Hon'ble Mr. R.K. Singh, Technical Member

Final Order No. 52406/2014

Per **D.N. Panda :**

The dispute between both the parties is as to whether three different types of goods found at the time of physical examination to be dealt as single goods for levy of Customs duty or as three different goods for applicability of respective duty rate to each such goods.

2. Shri Agarwal, ld. C.A. says that when physical examination revealed three different types of goods in the consignment that shall

never be single goods for the purpose of levy basing on the table exhibited by para 6.12 of the adjudication order. He says that he has worked out the duty liability in respect of three such different types of goods found in the consignment applying respective rate of duty prevailing at the material time for each such goods. According to him, differential duty liability arises is Rs.12,872/- and against that amount, he says that his client has deposited Rs.1,08,853/- during investigation. Therefore the balance amount of Rs.19,872/- is to be discharged. He also says that due to encashment of bank guarantee, even balance amount of Rs.19,872/- also stands discharged. His further version is that amount more than that is recoverable has been recovered. The arithmetical exercise depicted in the paper book filed is not possible to be sorted out now. Therefore Shri Agarwal, ld. C.A. is required to appear before the ld. Adjudicating authority to produce the same chart given to us during course of hearing to explain the ultimate liability that arises out of his calculation. Duty if due shall be payable and refund if any that may arise, shall be allowed by ld. Adjudicating Authority.

3. Further pleading of the ld. C.A. is that redemption fine and penalty should not be imposed. Record does not reveal whether there was any concealment of three different types of goods. The only view that was taken in physical examination is that the same contents made the goods to fall in three different categories. That

does not lead to any inference that there was a mis-declaration, since physical examination report did not bring out deliberate mis-declaration rather guided Authority below to classify the same import under three different categories. Accordingly, there shall be no redemption fine nor penalty imposable.

4. With the aforesaid direction, the appeal is disposed and appellant to report before the ld. adjudicating authority to work out ultimate duty liability if any to be discharged.

(Dictated & pronounced in open Court)

6/6/2014

(D.N. Panda)
Judicial Member

(R.K. Singh)
Technical Member

RM