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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066
CUSTOMS APPEAL BRANCH

Dated: **16/07/2014**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **C/A/52800/2014-CU[DB]** dated **09/07/2014**

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/818/2008	**PREM CABLES PVT. LTD.** PIPALIYA KALAN, DISTRICT PALI, RAJASTHAN.
		Name and Address of Respondent
2		**C.C.E. JAIPUR I** N.C.R.Building, Statue Circle, "C" Scheme, jaipur 302005.

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

K. K. Anand, Advocate
A-103, DEFENCE COLONY,
NEW DELHI,
110024

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.
DIVISION BENCH
Court No.2
Appeal No.C/818/2008
(Arising out of OIO No.18/2008 dated 15.9.2008 passed by CC, Jaipur)

Prem Cables Pvt.Ltd.		**Appellant**
	Vs.	
CC,Jaipur		**Respondent**

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

Date of hearing/Decision: 09.07.2014

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

FINAL ORDER NO.52800/2014

PER: D.N.PANDA

None present for the appellant nor is there any adjournment application. Appeal is six years old and appellant is enjoying the benefit of interim order dated 26.2.2009. When appellant made application for early hearing on 6.3.2013 that was dismissed finding no scope for listing the matter soon.

2. Matter has reached today on its own turn. Absence of appellant shows that appellant is not interested to contest its appeal. Considering that keeping the appeal pending shall be abuse of process of law, there shall be no adjournment in the matter. Assistance of ld.DR is taken to dispose the matter on merit.

3. Ld.DR says that when there was patent violation of law and mis-declaration of goods, appellant shall not be able to get any relief before the Tribunal. He further says that the importer in the

B.E.No.00035 dated 14.5.2007 filed before the Customs has declared the goods Aluminium Scrap "TWANG" with 65% recovery as per ISRI. As per ISRI guidelines for non-ferrous scrap, the code "TWANG" has been defined as "Insulated Aluminium Wire Scrap" which shall consist of Aluminium wire scrap with various types of insulation to be sold on a sample or recovery basis, subject to arrangement between buyer and seller. Thus per ISRI norms "TWANG" is the scrap of insulated aluminium wire consisting of Aluminium wire scrap with insulation material only. Ld.DR says that as per ISRI guidelines non ferrous scrap do not specify recovery of any other metal except aluminium, from insulated aluminium wire scrap codified as "TWANG".

4. Heard Revenue and also gone through findings of ld.Adjudicating authority beginning from para 3.1 to para 3.15 of adjudication order dated 15.9.2008.

5. Goods imported under Bill of Entry No.00035 dated 14.5.2007 declaring the goods as 'Aluminium Scrap-Twang' with 65% recovery as prescribed by ISRI was claimed by appellant to be classifiable under Customs Tariff Sub Heading 76020010 and valued at Rs.13,06,141/- . The import consignment consisted pieces of different sizes of insulated power cables, in mutilated, worn and torn state. The samples drawn from the import consignment were found to be 'single core cable scrap containing 23.61% of Aluminium wire and 31.95% of Copper wire by weight' and 'three core cable scarp containing Aluminium and Copper wires as 43.71% and 24.50% respectively. Samples drawn were tested from CRCL,

Anilkumar.

New Delhi and the test reports dated 20.3.2008 received also confirmed the presence of Aluminium and Copper as 23.5% and 31.8% respectively in **single core cable scrap** and 44.10% and 24.60% respectively in **three core cable scrap**.

6. CRCL's finding remained un-rebutted by the appellant. But there was contention of the appellant that CRCL report was faulty as is apparent from para 2.3 of the adjudication order. The ground of challenge was that the test conducted on a single piece of cable does not represent entire consignment. Ld. Adjudicating Authority did not find substance in the contention of the appellant. He also found composition of the goods to be different in para 3.5 of the adjudication order. Examining Rule 3 (b) of General Interpretative Rules, ld.Authority thoroughly tested composition of the goods with the finding of CRCL and reached to his conclusion about the nature and composition submitting to classification asserted by Revenue.

7. In the memo of appeal before the Tribunal, Appellant has only reiterated the submission made before the adjudicating authority. There is nothing noticeable ground to discard findings of the adjudicating authority. It is the submission of the appellant in ground of appeal that no action of appellant has caused loss to the Customs. Such plea is untenable for the reason that there was mis-declaration of goods as to the description of the imported goods. We may add that interpretative rule does not come to the rescue of the appellant for the reason that composition and contents of the goods proved mis-declaration of nature and description thereof. Therefore, order of adjudicating authority cannot be said to be

faulty nor suffering from any legal infirmity. Accordingly appeal is dismissed.

(Dictated & pronounced in the open court)

15.7.2014

(MANMOHAN SINGH)
TECHNICAL MEMEBR

11.7.2014

(D.N.PANDA)
JUDICIAL MEMBER

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