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

Appeal No. E/4904/2004 - EX[DB] Date 07/08/2009

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S GWALIOR LEATHER & TENT FACTORY
MALL ROAD, MORAR, GWALIOR

M/S GWALIOR LEATHER & TENT FACTORY Appellant
Vs
C.C.E. INDORE Respondent

I am directed to transmit herewith a certified copy of **Final order No. 506/2009-EX[DB]** dated 22-7-09

passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
   C.C.E. INDORE
   P.B.-10, MANIK BAGH PALACE, INDORE (M.P.)
2. Adv. / Consult SH. S.K. AGARWAL,
   "SHRI KESHAV SADAN" SHANTI NAGAR,
   BEHIND TRIVEDI NURSING HOME,
   NAI SARAK, LASHKAR, GWALIOR-1
3 C.D.R
4 ~~J.C.D.R.~~
5 Bar association, CESTAT, New Delhi
6 Director Publications, Customs, Excise. I.P. Estate, New Delhi
7 M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8 Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9 Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10 M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)
11 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
12 Taxindiaonline.com Pvt.Ltd. B-XI/8183,Vasant Kunj, New Delhi - 110070
13 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
14 Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
15 LAWCRUX Advisors Pvt Ltd. LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
16 Office Copy
17 Guard file
18. HON'BLE PRESIDENT

Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. I

Excise Appeal No. 4904 /2004- Ex(BR)

[Arising out of Order-in-Appeal No. GWL/87/2004 dated 24.2.2004 passed by Commissioner (Appeals), Central Excise, Bhopal]

For approval and signature:

Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri M. Veeraiyan, Member (Technical)

1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982. No

2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? Yes.

3. Whether Their Lordships wish to see the fair copy of the Order? Seen

4. Whether Order is to be circulated to the Departmental authorities? Yes

M/s. Gwalior Leather & Tent Factory — Appellant
[Rep. by Mr.S.K. Agarwal, Consultant]

Vs.

Commissioner of Central Excise
Indore — Respondent
[Rep. by Shri M. Rastogi, DR]

<u>CORAM</u>:

Hon'ble Mr. Justice R.M.S. Khandeparkar, President
Hon'ble Mr. M. Veeraiyan, Member (Technical)

Date of Hearing/decision : 22.7.2009

Final **ORAL ORDER NO. 506/09-Ex**

Per M. Veeraiyan (for the Bench):

This is an appeal against the order of the Commissioner (Appeals) No. GWL/87/2004 dated 24.2.2004.

2. Heard both sides.

3. The appellant is a state government owned company manufacturing footwears and they have sold the products directly to customers on the basis of MRP printed on the footwear and also supplied to various organisations like home guards, police, and navy on the basis of contract. The appellant has paid the duty adopting value based on MRP minus permissible deductions. Show cause notice was issued proposing that the valuation should be based on the contract price and not based on MRP minus permissible deductions. Show cause notice notes that MRP is printed on the footwear. It also makes allegation that extra amount is collected over the invoice price from the above institutional customers. However, no allegation has been made that the over all collections from these organisations have been above the MRP prices for various categories of footwear. On the basis of show cause notice, the original authority confirmed differential duty of Rs. 4,43, 108/- relating to the period 26.9.1998 to 31.3.1999 along with interest and imposed a penalty of Rs.10,000/- and the order of the original authority has been confirmed by the Commissioner (Appeals).

4. After considering the submissions from both the sides and on perusal of the records, we find that the show cause notice clearly refers to MRP having been printed on the footwear. It is not in dispute that the footwear is covered under section 4A of the Central Excise Act for the purpose of valuation. There is no allegation or finding that sales to these institutional buyers are at prices in excess of MRP mentioned for various categories mentioned in the footwear.

5. Under these circumstances, we are unable to sustain order of the lower authorities in confirming the demand adopting the contract price. The orders are set aside and appeal is allowed with consequential relief.

(Justice R.M.S. Khandeparkar)
President

(M. Veeraiyan)
Member(Technical)

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