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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

Appeal No. C/894 /2005-895 /2005 Date 04/09/2008

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

To : 1. M/S NATWAR STEEL PVT LTD
2. MR. JEEVAN GARG, DIRECTOR
AMLOH ROAD, MANDI GOBINDGARH,
DISTT. FATEHGARH SAHIB, (PUNJAB)

M/S NATWAR STEEL PVT LTD Appellant

Vs

THE COMMISSIONER OF CUSTOMS, NEW DELHI Respondent

I am directed to transmit herewith a certified copy of **Final order No.** C/328-329/08-CUS. DATED 18.07.08

passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
THE COMMISSIONER OF CUSTOMS,
ICD, TUGLAKABAD, NEW DELHI
2. Adv. / Consult
MR.BIPIN GARG, ADV., B-I/1289A,
VASANT KUNJ, NEW DELHI – 110 070.
3. S.D.R.
4. J.C.D.R.
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017
7. M/s Centax Publictions (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)
9. Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar,Chennai 600l7
13. Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
14. E..y Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15
15. Office Copy
16. Guard file

Assistant Registrar
(Customs Appeal Branch)

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

Custom Appeal No. 894-895 of 2005

(Arising out of Order-in-Original No. 65/2005 dated 29.7.2005 passed by the Commissioner of Customs, New Delhi)

For approval and signature

HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE MR. RAKESH KUMAR. 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?	
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3.	Whether their Lordships wish to see the fair copy of the order?	
4.	Whether order is to be circulated to the Departmental authorities.	

M/s Natwar Steel Pvt. Ltd. Appellant

Vs.

CC, New Delhi Respondent

Appearance:
Shri Bipin Garg, Advocate & Shri M.P. Singh, Advocate - For appellant
Shri Amit Jain, DR - For respondent

CORAM:
HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE MR. RAKESH KUMAR, MEMBER (TECHNICAL)

Date of Hearing: 18.7.2008

Final Order No. C/328-329/08 dated 18/7/08

Per S.S. Kang:

The appellant filed these appeals against the impugned order where the imported goods were confiscated and allowed to be redeemed on redemption fine on the ground of mis-declaration and penalties was imposed.

2. The appellant made import of goods and declared the same as heavy melting scrap. On examination of the goods, the goods were found to be new prime quality varnished and rust free nails. Show-cause notice was issued to the appellant for confiscation of the goods on the ground of mis-declaration and for enhancement of the value. The adjudicating authority held that the goods in question be reassessed to duty @ Rs. 31.11 per kg. and also ordered confiscation of the goods.

3. The contention of the appellant is that the goods in question are only for melting purpose. The nails are not up to the prescribed standards, therefore, the manufacturer as cleared as scrap.

4. In respect of valuation, the contention of the appellant is that the transaction value was wrongly rejected. As the goods in question were melting scrap, therefore, by treating the same as nails, value was wrongly enhanced.

5. The contention of the Revenue is that the goods were examined and it was found the prima quality nails which cannot be considered as heavy melting scrap. In respect of valuation, the ld. SDR submitted that the Commissioner of Customs in the impugned order taken into consideration the import of wire nails and for assessment purposes taken into consideration lowest price for import of nails. The Commissioner also has taken into consideration the value of steel wire and bars which is the raw material for manufacture of such nails and after taking into consideration the same, value of nails is worked out to Rs.31.11 per kg. The contention is that as the Commissioner has taken into consideration the value of similar goods imported by other importer and also the value of import of raw material for the manufacture of such nails and the value comes to almost 31.11 per kg., therefore, the impugned order is rightly passed.

6. We find that the appellant declared the imported goods as melting scrap, on examination, goods were found to the prime quality varnished and rust free nails. As

goods were found not as per ~~from~~ the declaration, therefore, we find that transaction value was rightly rejected and the Commissioner of Cus-toms while determining the value of the goods taken into consideration the value of similar goods imported into India and the value of imported raw material for the manufacture of nails for arriving at the assessable value. In both cases, the assessable value comes to Rs.33.11 per kg. In these circumstances, we find no merit in the contention of the appellant. The appeals are dismissed.

(Operative part of the order pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

RM