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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/744 /2005-748 /2005 - CU[DB] Date 03/11/2008

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

To :
M/S D M INTERNATIONAL
COMBINED BUSINESS CENTRE, BASEMENT, CABIN NO.4, GOPALA TOWER, 25, RAJINDRA PLACE, NEW DELHI

M/S D M INTERNATIONAL Appellant
Vs
THE COMMISSIONER OF CUSTOM & CENTRAL EXCISE, DELHI Respondent

I am directed to transmit herewith a certified copy of Final order No. C/541-545/08-CUS. DATED 13.10.08 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 CUSTOM & CENTRAL EXCISE, DELHI
CENTRAL REVENUE BUILDING, I.P.ESTATE, NEW DELHI
2. Adv. / Consult
MR. V.K. AGRAWAL, ADV.
B-82, LAJPAT NAGAR-II, N.D. – 24.

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 - 3
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
13 Taxindiaonline.com Pvt.Ltd. B-XI/8183.Vasant Kunj. New Delhi - 110070
14 Easy 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. 744 to 748 of 2005

(Arising out of Order-in-Appeal No. 5 to 9/Cus/Appl/DLH-IV/2005 dated 13.5.2005 passed by the Commissioner of Central Excise (Appeals), 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 D.M. International — Appellant

Vs.

CC, New Delhi — Respondent

Appearance:
Shri V.K. Agrawal, Advocate - For appellant
Shri L.B. Yadav, DR - For respondent

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

Date of Hearing: 13.10.2008

Final Order No. C/541-545/08 dated 13/10/08

Per S.S. Kang:

These appeals are filed ~~under~~ against the common impugned order, therefore, are being taken up together. The appellant filed these appeals against the impugned order whereby the Commissioner (Appeals) upheld the assessment order on the ground that loaded value was accepted by the appellant after sharing the information/data. The Commissioner (Appeals) also held that assessment was correctly made on the basis of data in the NIDB. The contention of the appellant is that the appeal was dismissed on the ground that the enhanced value was accepted by the importer. The contention is that in the taxation law there is no estoppel. The appellant relied upon the decision of Hon'ble Supreme Court in the case of **Dunlop India Ltd. Vs. UOI** reported in 1983 (13) ELT 1566.

2. The contention of the Revenue is that value was enhanced on the basis of data available with the Custom authorities showing the import of same/similar goods at higher value and the same has been accepted by the importer. Hence there is no merit in the appeal.

3. We find that Commissioner (Appeals) in the impugned order has not discussed the evidence by way of data available with the Custom authorities showing the import of same/similar goods at enhanced value. The Commissioner (Appeals) also

held that the appellant has accepted the enhanced value. We find that Hon'ble Supreme Court in the case of **Dunlop India Ltd.** (supra) held that there is no estoppel in law against a party in taxation matters and in order to clear the goods for the Customs, the appellant agents may have given the classification in accordance with the authorities or they may even be under some misapprehension. In view of the above decision of Hon'ble Supreme Court, we find it is a fit case for re-consideration by the Commissioner (Appeals). The Commissioner (Appeals) will decide the appeal on merit after taking into consideration the evidence on record and after affording an opportunity of hearing to the appellant. The appeals are disposed of by way of remand.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

RM