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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/727 /2005 - CU[DB] Date 10/11/2008

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

To :
THE COMMISSIONER OF CUSTOMS,
ICD, TKD, NEW DELHI

THE COMMISSIONER OF CUSTOMS, NEW DELHI Appellant

Vs

M/S INTERNATIONAL TRADERS Respondent

I am directed to transmit herewith a certified copy of **Final order** No.C/578/08-CUS. DATED 17.10.08 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
M/S INTERNATIONAL TRADERS
7, GOPINATH BUILDING KHARI BAOLI, DELHI-110006.

2. Adv. / Consult MR. RAVI RAGHAVAN, ADV.
B-6/10/ SAFDERJUNG ENCL., NEW DELHI – 29.

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 Tax Appeal No. 727 of 2005**

(Arising out of Order-in-Appeal No. CC(A)CSP(150)D-II/05 dated 29.4.2005 passed by the Commissioner of Customs (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. | |

CC, New Delhi — Appellant

Vs.

M/s International Traders — Respondent

Appearance:
Shri Fateh Singh, DR - For appellant
Shri Ravi Raghvan, Advocate - For respondent

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

Date of Hearing: 17.10.2008

Final Order No. C/528/08 dated 17/10/08

***Per S.S. Kang:***

Heard both sides.

2. The Revenue filed this appeal against the impugned order whereby the value enhanced by the assessing authority in respect of imported goods was set aside. The

contention of the Revenue is that the value was enhanced on the basis of EDI data. The same goods are being imported at the higher value, therefore, value was rightly enhanced. The Revenue also produced the communication received from Assistant Commissioner (Review), ICD, TKD, New Delhi in respect of relevant evidence in support of their claim.

3. The contention of the respondent is that the value of imported goods were enhanced by 20% and no specific evidence of Bill of Entry in respect of import of same or similar goods at higher value is available with the Revenue. On the contrary, respondent produced evidence by way of producing Bill of Entry No. 360420 dated 28.5.2004 showing that the same goods are being imported and assessed at a lower price than declared by the respondent.

4. We find that the Commissioner (Appeals) in the impugned order held that the value was enhanced on the basis of evidence available in the NIDB data. But no~~t~~ specific evidence of contemporaneous imports ~~in respect of import~~ of parallel

parameters such as time of import, country of origin, description of goods and place of import has been produced, based on which transaction value has been rejected and the value of the impugned goods enhanced by 20%. Before us, also Revenue produced communication from Indian Customs, EDI System which shows that the value of item in question is not available. However, the value of black pepper is around Rs 72000/- ~~738~~ PMT in view of this value should have more than US$ 1000 MT. Further, we find that the respondent produced evidence before the lower authority showing that the same goods are being imported at lower price. In these circumstances, we find no infirmity in the impugned order. The appeal is dismissed.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

RM