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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/336 TO 338 /2005** Date 19/03/2008

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

To :

M/S. NAHAR INDUSTRIAL ENTERPRISES LTD.
VILL. JALALDIWAL, TEHSIL RAIKOT, DISTT.
LUDHIANA.

M/S. NAHAR INDUSTRIAL ENTERPRISES LTD. Appellant
Vs
COMMISSIONER OF CUSTOMS, AMRITSAR Respondent

I am directed to transmit herewith a certified copy of **Final order No. C/52-54/2008-CUSTOMS DATED 13.03.08** 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 COMMISSIONER OF CUSTOMS, AMRITSAR
CUSTOMS COMMISSIONERATE, THE MALL,
AMRITSAR

2. Adv. / Consult

MR.BALBIR SINGH, ADV. MASTAN & CO, C-5/9,
SAFDARJUNG ENCLAVE,N.DELHI.

M/S. OSWAL FATS & OILS, (PROP. NAHAR INDUSTRIAL ENTERPRISES LTD.)
VILL. JALALDIWAL, TEHSIL RAIKOT, DISTT. LUDHIANA.

3. S.D.R.
4. J.C.D.R.
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, marg. 43, saket, New
7. M/s Centax Publictions (P) Ltd., 1512-E, Bhishm Pitamah
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301
9. R.Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh.
12. Co, Law Institution
13. TAX INDIA, B-XI/8183,Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file

Assistant Registrar
(Customs Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH NEW DELHI, COURT NO. I

Custom Appeal Nos. 336 to 338 of 2005
[Arising out of order in Original No. 05/CUS/2005 dated 19.01.2005 passed by the Commissioner of Customs, Amritsar]

Date of Hearing/ Decision: 13.03.2008

For approval and signature:

Hon'ble Mr. Justice S.N. Jha, President
Hon'ble Mr. 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 Nahar Industrial Enterprises Limited — Appellant
[Rep. by Mr. Rupender Singh. Advocate]

Vs.

CC, Amritsar — Respondent
[Rep. by Mr. Amit Jain, Authorised Representative (DR) for the Respondent]

CORAM: **Hon'ble Mr. Justice S.N. Jha, President**
Hon'ble Mr. M. Veeraiyan, Member (Technical)

Final **ORDER** No C/52 to 54/08

Per M. Veeraiyan:

These appeals involve a common issue and, therefore, are being disposed of through a common order.

2. Heard both sides.

3. The appellants imported item described as Palm Acid Oil of Malaysian origin and declared the price as 146 US$ PMT in two cases and as 150 US$ in the other case. They also produced contracts with the suppliers substantiating the

transaction values. The Department relied on a contemporaneous import of the same commodity namely, Palm Acid Oil, also of Malaysia origin and imported through Mumbai Custom and enhanced the value. The appellants sought for the copy of the bill of entry relied upon for enhancement along with the connected commercial invoice/ contract relating to such contemporaneous import. Admittedly, the Department produced only the bill of entry relied upon but not the connected documents to the appellants at the time of adjudication.

4. When the case came up for hearing, learned DR sought for time to find out whether the connected commercial invoice/ sale contract would be available and he has since procured the same and submitted copies before us. We wish that this document was procured and made available to the appellant at the time of original adjudication itself. Production of these documents sought for would have fulfilled the requirements of principles of natural justice. It would be appropriate that the appellant is given opportunity to make further submissions before the original authority in the light of the documents now produced. In view of the above, we set-aside the order and remand the matter to the original authority. We also permit the appellant to make written submissions, if any, within four weeks from the date of receipt of this order and thereafter the original authority shall decide within two months after giving an opportunity of hearing to the appellant.

5. Appeals are allowed by way of remand.

(Order dictated and pronounced in the open Court)

[Justice S.N. Jha]
President

[M. Veeraiyan]
Member (Technical)

[Pant]