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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/837 /2005 Date 09/07/2008

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

To :
M/S SUPER TANNERY LTD
JAJMAU ROAD, JAJMAU,
KANPUR - 208010.

M/S SUPER TANNERY LTD Appellant
Vs
THE COMMISSIONER (APPEALS), KANPUR Respondent

I am directed to transmit herewith a certified copy of **Final order No.C/188/08-CUSTOMS DT. 23.06.08** 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 (APPEALS), KANPUR
   117/7, SARVODAYA NAGAR KANPUR
2. Adv. / Consult. MAJOR J.S. SODHI,
   C/O M/S SUPER TANNERY LTD.. JAJMAU ROAD,
   JAJMAU, KANPUR - 208010.
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 60017
13. Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
14. Office Copy
15. 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. 837 of 2005

(Arising out of Order-in-Appeal No. 165/CE/APPL/KNP/06 dated 28.2.2005 passed by the Commissioner (Appeals), Customs & Central Excise, Kanpur)

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?	no
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	no
3.	Whether their Lordships wish to see the fair copy of the order?	yes
4.	Whether order is to be circulated to the Departmental authorities.	N

Super Tannery Ltd. Appellant

Vs.

CCE, Kanpur Respondent

Appearance:
Major J.S. Sodhi - For appellant
Shri R.K. Verma, DR - For respondent

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

Date of Hearing: 23.6.2008

Final Order No. C/188/08 dated 23/6/08

Per S.S. Kang:

Heard both sides.

2. The appellant filed this appeal against the impugned order whereby the appeal filed by the appellant against the adjudication order was dismissed.

3. The Deputy Commissioner of Customs while finalising the assessment in respect of shipping bills held as under :-

> "The assessment of the 51 S/Bs covering the disputed varieties of footwear mentioned in TABLE – 2 above, is finalised by treating the various varieties as Gents Leather Half Boots (except for Article No. 511 and 714). The consignments are ordered to be logged in the respective DEEC Books with the specific remark but except for Article No. 511 and 714, the goods exported are not Gents Leather Long Boots but Gents Leather Half Boots. It is also ordered that no drawback would be admissible under the referred Brand rate letters on these varieties of footwear (except on Article No. 511 and 714) since the Brand Rate letters have been specifically issued for Gents Leather Long Boots and not for Gents Leather Half Boots."

4. The grievance of the appellant against the finding is that the appellant made export of gents long leather boots whereas the

Deputy Commissioner held that the exported goods are half boots.

5. The contention of the appellant is that as per Central Leather Research Institute report the appellant consumed the inputs as required for gents leather long boots, therefore, the finding of the authority that the appellant exported half boots is not sustainable.

6. The contention of the Revenue is that on examination of goods when appellant referred the matter to the DGFT and DGFT gave classification of long/half boots and as per the clarification given by the DGFT the appellant exported gents leather half boots. As the appellants are claiming the benefit which is ultimately given by the DGFT, therefore, in view of the DGFT opinion the assessment was finalised.

7. We find that in this case the dispute is whether the appellant made export of gents leather half boots or gents leather long boots, The matter was referred to DGFT and DGFT gave opinion that the goods on parameters of the shoes exported by

the appellant shows that the same are half boots. In view of this, 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