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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/853 /2005-854 /2005 Date 07/08/2008

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

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

THE COMMISSIONER OF CUSTOMS, NEW DELHI Appellant

Vs

M/S RAM MOHAN & SONS Respondent

I am directed to transmit herewith a certified copy of **Final order No.C/280-281/2008** Customs dated 24.7.08

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 RAM MOHAN & SONS
   AK-8, SHALIMAR BAGH, NEW DELHI
2. Adv. / Consult
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
16. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15

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. 853-854 of 2005

(Arising out of Order-in-Appeal No. CC(A)CSP(179-180)D-II/05 dated 29,6.2005 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, ICD, TKD, New Delhi — Appellant

Vs.

M/s Ram Mohan & Sons — Respondent
M/s Kamal Traders

Appearance:
Shri R.K. Madan, DR - For appellant
None - For respondent

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

Date of Hearing: 24.7.2008

Final Order No. C/280-281/08 dated 24/7/08

Per S.S. Kang:

Heard ld. DR. None appeared on behalf of the respondent in spite of notice. Common issue is involved in these appeals, therefore, are being taken up together.

2. Revenue filed these appeals against the impugned order whereby Commissioner (Appeals) held that the value declared by the respondent was not accepted by the department and same was enhanced to USD 0.6 per kg. and Commissioner (Appeals) set aside the assessment made by taking into consideration this value.

3. The contention of the Revenue is that the respondent made import of the goods and declared the value at USD 0.6 per kg. and the same has been accepted by the adjudicating authority. The appellant had not disputed the value declared by them but only dispute before the adjudicating authority was that the goods were imported without specific licence. The contention of the respondent before the adjudicating authority was that they had applied for import licence and the same was rejected after the order was placed on the supplier of the goods. The issue of valuation was not in dispute before the adjudicating authority, therefore, the Commissioner (Appeals) wrongly held that the value was enhanced to USD 0.6 per kg.

4. We have gone through the adjudication orders. The dispute before the adjudicating authority was that the goods were imported without specific licence and the submissions were made in this regard only. In these circumstances, we find as the issue of valuation was not before the adjudicating authority, therefore, the Commissioner (Appeal's) order by ~~taking into consideration the value of goods USD 0.6 per kg.~~ with regard to valuation is not sustainable hence set aside and the order passed by the assessing authority is restored. The appeals are allowed.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

RM