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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/870 -878 /2005 Date 11/08/2008

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

To :
THE COMMISSIONER OF CUSTOMS, NEW DELHI
ICD, TUGHLAKABAD, NEW DELHI
THE COMMISSIONER OF CUSTOMS, NEW DELHI Appellant
Vs
M/S KDB TRADING PVT LTD Respondent

I am directed to transmit herewith a certified copy of Final order No. C/295-303/08-Cus dated 1.8.2008 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 KDB TRADING PVT LTD
   250, CYCLIC MARKET, JHANDEWALAN EXT., NEW DELHI
   110055
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. 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)

1.M/S Nipson Plastics P. Ltd. 17
F-230,Sankar Rd,
New Rajinder Nagar
N. Delhi
2.M/s H.B.S. Enterprises 18
F-230,2nd Floor,
New Rajinder Nagar,
N.Delhi
3.M/s G.G. Textiles, 19
F-230,3rd Floor,
New Rajinder Nagar,
N. Delhi
4.M/s B.S. Enterprises, 20
45-A,Gali No.2,Vinay Nagar,
Batala Rd.,Amritsar.
5M/s Dolphin Enterprises 21
186 IInd Floor, Kohat Enclave,
Pitampura, N.Delhi
6.M/s Surya Enterprises 22
396Green Field Avenue,
Majitha Rd.,Amritsar
7.M/s Guru Kripa Enterprises
3385Room No.I,Desh Bandhu Gupta Rd., 23
Karolbagh, N. Delhi

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI

COURT – II

CUSTOMS APPEAL NO. 870-878 OF 2005

[Arising out of Order-in-Appeal No. CC(A) CSP(185-193)D-II/05 dated 30.06.2005 passed by the Commissioner of Central Excise (Appeals), Customs, 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?	

C.C., ICD, TKD, New Delhi — Appellant

Vs.

M/s. KDB Trading (P) Ltd.,
M/s. Nipison Plastics Pvt. Ltd.,
M/s. B.S. Enterprises,
M/s. G.G. Textiles,
M/s. H.B.S.Enterprises,
M/s. G.G. Textiles,
M/s. Surya Enterprises,
M/s. Dolphin Enterprises,
M/s. Guru Kripa Textiles — Respondents

Appearance:

Shri B.K.Singh, Departmental Representative, for the Revenue,
None for the respondents

Coram:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. Rakesh Kumar, Member (Technical)

Date of Hearing: 1st August, 2008

FINAL ORDER NO. C/295-303/08 **dated** 1/8/08

Per S.S. Kang:

Heard learned SDR as none appeared on behalf of the respondents in spite of notice. Revenue filed these appeals against a common impugned order.

2. Breief facts of the case are that the respondents made import of goods declared as Worn Clothing and declared the value ranging from U.S.$ 0.13 per kg. to US$ 0.45 per kg. The value declared by the respondents was not accepted and the assessing authority enhanced the value on the basis of NIDB data to US$ 0.60 per kg. The respondents filed appeals and the Commissioner (Appeals) held that the value of the goods to be taken as US$ 0.45 per kg. The Commissioner (Appeals) in the impugned order relied upon the Bill of Entry No. 762264 dated 13.12.2004 to arrive at the conclusion that the similar goods are being imported and assessed at US$ 0.45 per kg.

3. Revenue's contention is that as per NIDB data similar goods are being assessed at US$ 0.60 per kg., therefore, the Commissioner (Appeals) order is not sustainable. Revenue's contention is also that the appellants accepted the value enhanced by the assessing authority.

4. We find that there is nothing on record to show that the respondents accepted the value enhanced by the assessing authority. Therefore, there is no merit in the contention of revenue. The Commissioner (Appeals) in the impugned order relied upo0n the specific bill of entry whereby the similar goods were assessed at US$ 0.45 per kg. and in the present appeals the Revenue has not produced any evidence contrary to this. Therefore, we find no merit in the appeals. The same are dismissed.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

Dated 4th August, 2008
RK