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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/951 /2005 R C/M/1209/06 Date 18/08/2008

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

To :
M/S SHREE KRISHNA TRADERS
HOUSE NO. 438, SECTOR 9, FARIDABAD

M/S SHREE KRISHNA TRADERS Appellant
Vs
C.C.FARIDABAD Respondent

I am directed to transmit herewith a certified copy of **Final order No.** C/307/08 dated 18.7.2008

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
   C.C.FARIDABAD
   DELHI-IV, CGO COMPLEX, NH IV, FARIDABAD
2. Adv. / Consult
   MR.PIYUSH KUMAR,ADV
   B-25,LAJPAT NAGAR-III,N.DELHI
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)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. II
Customs Appeal No. 951 of 2005 and Misc. Application No. 129 of 2008

[Arising out of the Order-in-Appeal No. 13/CUS/APPL/DLH-IV/2005 dated 06/10/2005 passed by The Commissioner of Central Excise (Appeals), Delhi – IV, Faridabad.]

For Approval and signature :
Hon'ble Shri S.S. Kang, Vice President
Hon'ble Shri 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 Department Authorities?	:

M/s Shree Krishna Traders — Appellant

Versus

CC, Delhi – IV, Faridabad — Respondent

Appearance

S/Shri Abhinav Jain, Ms. Reema Jain and Gyanendra Mishra, Advocates – for the appellant.

Shri R.K. Verma, Authorized Representative (DR) - for the Respondent.

CORAM:**Hon'ble Shri S.S. Kang, Vice President**
Hon'ble Sh. Rakesh Kumar, Member (Technical)

DATE OF HEARING : 18/07/2008.

Final Order No. C/307/08 Dated : 18/7/08

Per. S.S. Kang :-

Heard both sides. Appellant filed this appeal against the impugned order passed by Commissioner (Appeals). The appellant made import and declared the goods as furnace oil. Samples were drawn from the consignments and send through Indian Institute of Petroleum, Dehradun and CRCL to find out whether the consignment in question contained any hazardous material. The chemical report of CRCL shows that the samples contained Chromium which is more than 100 MG per litre and it is also clarified the samples was of used oil and hazardous waste. The applicant made request for re-testing and the samples were re-tested and it was found that goods in question fall under the category of hazardous waste. The Adjudicating Authority confiscated the goods and imposed a penalty.

2. Appellant filed appeal and the same was dismissed.

3. ~~Condition~~ Contention of appellant is that there are various reports which opined the product differently in therefore the samples should be re-tested to ascertain physical composition of the goods.

4. The contention of revenue is that before the Commissioner (Appeals), appellant had not contested the merit of the test, the contention was that the goods were imported in 1999, therefore, the parameters mentioned in circular issued in the year 1997 should be applied and not parameters mentioned in the subsequent circulars.

5. We find, that the Commissioner (Appeals) in the impugned order specifically held that appellant had not contested the merit of the tests and only contention of appellant is that the parameters which were prescribed under circular issued in the year 1997 should be applied. We find that various circulars was issued subsequently prescribing the parameters in respect of imported goods. Further, we find Hon'ble Supreme Court has taken notice of the fact that hazardous waste/material are being imported into India. Thereafter the board issued a circular as per the directions given by the

Hon'ble Supreme Court. we find that as per the test reports the goods of hazardous waste and the import of the same is prohibited. In these circumstances, we find no merit in the contention of appellant for re-tested of the ~~goods~~ Samples. The appeal is dismissed.

(Dictated and pronounced in open court)

(S.S. Kang)
Vice President

(Rakesh Kumar)
Member (Technical)

PK