

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
SINGLE MEMBER APPEAL BRANCH

Appeal No. C/685 -686/2007-SM[BR]

Date 06/02/2008

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

To :
C.C. (PREVENTIVE) AMRITSAR
CUSTOM HOUSE, CENTRAL REVENUE BUILDING,
THE MALL, AMRITSAR 143001.

C.C. (PREVENTIVE) AMRITSAR

Appellant
Vs
Respondent

M/S JASWANT TRADERS

I am directed to transmit herewith a certified copy of Final order No. 266- 267/ 2008-SM [BR] dated 15.1.2008
passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

(1-2) M/S JASWANT TRADERS

VPO NAG-KALAN, DISTT- AMRITSAR.

2. Adv. / Consult shri.R.S. SHARMA ADV.

C-9/9656, VASANT KUNJ NEW DELHI-70

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 Publications (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
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

Custom Appeal No. 685-686 of 2007-SM(BR)

(Arising out of Order-in-Appeal No. 87C,B/CUS/APPL/LDH/2007 dated 6.7.07 passed by the Commissioner (Appeals), Customs & Central Excise, Jalandhar)

For approval and signature

HON'BLE MR. S.S. KANG, VICE PRESIDENT

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?	f
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 (Preventive), Amritsar

Appellant

Vs.

M/s Jaswant Traders

Respondent

Appearance:

Shri B.S. Suhag, DR

- For appellant

Shri R.R. Sharma, Advocate

- For respondent

CORAM:

HON'BLE MR. S.S. KANG, VICE PRESIDENT

Date of Hearing: 15.1.2008

Filed Order No. 266-67/08-SM(BR) dated 15.1.08

Per S.S. Kang:

Common issue is involved in these appeals, therefore, are being taken up together.

2. Revenue filed these appeals against the impugned orders whereby redemption fine in Appeal No. 686/07 was

reduced from Rs.6,60,000/- from Rs. One lakh and penalty was reduced from 2,55,000/- to Rs.20,000/-. The Revenue is in Appeal No. 685/07 where the redemption fine is reduced from Rs. 3 lakhs to Rs.70,000/- and penalty is reduced from Rs.1,80,000/- to Rs.20,000/-.

3. The contention of the Revenue is that the respondents made import of second hand monitors and other computer parts. The adjudicating authority was enhanced the invoice value and confiscated the goods on the ground of mis-declaration and imposed penalties.

4. The contention of the Revenue is that in both cases, the redemption fine was imposed after taking into consideration the profit margins where the profit margin is 2,98,000/-. The redemption fine was imposed of Rs.Three lakhs and where the profit margin was Rs.6,53,000/-. The redemption fine of Rs.6,60,000/- was imposed, therefore, the reduction in redemption fine and penalty by Commissioner (Appeals) is not sustainable.

5. The contention of the respondent is that though they had not filed any appeals against the impugned orders. The demurrage and detention charges suffered by them are to be

taken into consideration while imposing redemption fine and penalty. The contention is that they are almost paid Rs. Three lakhs in both the cases as demurrage and detention charges. I find that in the impugned order Commissioner (Appeals) had taken into consideration the market value of the similar goods reduced the quantum of fine and penalty. In the present case, the goods are old and used parts of computer, in the case of old and used goods, there can never be any identical goods for the reason that the wear and tear of each item will depend upon their age and other factors. In the present case, as the enhancement of the value of the goods is upheld by the Commissioner (Appeals), therefore, after taking into consideration the demurrage/detention charges incurred by the respondent. In appeal No. C/686/07 the redemption fine is enhanced to Rs. 4 lakhs and penalty is enhanced to Rs. One lakh. In Appeal No. C/685/07 the redemption fine is enhanced to Rs.1,50,000/- and penalty is enhanced to Rs.75,000/-. The appeals are disposed of as indicated above.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

RM