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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/420 /2008-SM[BR] Date 11/08/2008

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

To :
C.C. NEW DELHI (IMPORT & GENERAL)
NEW CUSTOM HOUSE, NEAR I.G.I. AIRPORT, NEW DELHI 110037.

C.C. NEW DELHI (IMPORT & GENERAL) Appellant

Vs

M/S MULTI TAX FILTER PVT. LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No 1119 /2008 –SM[BR]**. dated 26.6.2008 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
   M/S MULTI TAX FILTER PVT. LTD.
   217, HANS BHAWAN,
   BAHADUR SHAH ZAFAR MARG,
   NEW DELHI.
2. Adv. / Consult A.K. TIWARI ADV.
   B-67, FLATTED FACTORY COMPLEX,
   OKHLA PHASE-III, NEW DELHI-110020
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, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

C/Appeal No.420/08-SM

(Arising out of order in appeal No.CC(A)/Cus/I&G/D.I/76/-8 dated 19.2.08 passed by the Commissioner of Central Excise (Appeals), New Delhi)

For approval and signature:

Hon'ble Mr.P.K. Das, Member(Judicial))

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 should 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?

NO

CC, New Delhi — Appellant (Rep. by Shri A.K. Rastogi, DR)

Vs

M/s Multi Tax Filter (P) Ltd, — Respondent (Rep. by Shri A.K. Tiwari, Advocate)

Coram: Hon'ble Mr P.K. Das, Member(Judicial)

Date of Hearing: 26.6.08

Final Order No. 1119 /2008-SM(BR)

Per P.K. Das:

The Revenue filed this appeal against the order of Commissioner (Appeals) whereby confiscation of goods was set aside and penalty was reduced from Rs.75,000/- to Rs.5,000/-.

2. After hearing both the sides and on perusal of the record, it is seen from the impugned order that the respondents filed Bill of Entry No.414528 dated 29.8.06 for importation and clearance of 22 Filter Sheets against Invoice No.861022614 dated 22.8.06. The respondents availed clearance of the goods through RMS system. After filing of Bill of Entry, the supplier informed that the consignment is covered by another Invoice No.8610222613 dated 23.8.06 to the quantity of 22 pieces of Filter Sheets. Accordingly, by letter dated 1st September, 2006 prior to clearance of goods, the respondents informed the Customs and requested for clearance of goods.

applied for amendment of

They also ~~filed~~ Bill of Entry under Section 149 of the Customs Act. The learned Advocate submits that amendment of Bill of Entry was permitted.

3. The Adjudicating Authority confiscated the goods on the ground of mis-declaration in the Bill of Entry. The Commissioners (Appeals) set aside the confiscation of goods on the ground that the appellant acted in bonafide manner.

4. I find that the Adjudicating Authority observed that the respondents even after knowing that the Bill of Entry had been marked to be cleared without examination and appraisement, the importer came forward to make true and complete declaration prior to paying the duty and seeking clearance, which clearly showed the bonafide of the importer. So the Adjudicating Authority accepted the bonafide of the respondents. They made true and complete declaration and Bill of Entry was amended and therefore, the allegation of mis-declaration in the Bill of Entry by the Adjudicating Authority is not sustainable.

5. I agree with the finding of the Commissioner (Appeals) that the act of the respondent establishes bonafide. I also note that there is no mis-declaration in the Bill of Entry and therefore, the Commissioner (Appeals) has rightly set aside the redemption fine and reduced the penalty. Accordingly, I do not find any merit in the Appeal of the Revenue and the same is rejected.

(Order dictated and pronounced in the open Court).

(P.K. Das)
Member(Judicial)

MPS*