

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

Appeal No. C/426 /2006 - CU[DB]

Date 11/02/2009

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

To :
M/S. VICTORY INTERNATIONAL
WZ-219 C, MADIPUR VILLAGE
NEW DELHI - 110 063.

M/S. VICTORY INTERNATIONAL

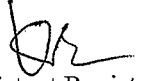
COMMISSIONER OF CUSTOMS, ICD, TUGHLAKABAD
NEW DELHI

Appellant

Vs

Respondent

I am directed to transmit herewith a certified copy of **Final order No. C/72/09-CUS. DATED 03.02.09**
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 COMMISSIONER OF CUSTOMS,
ICD, TUGHLAKABAD NEW DELHI

2. Adv. / Consult MR.V K AGGARWAL, ADV.,
B-82, LAJPAT NAGAR, PART-2,
NEW DELHI-110024

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 Publications (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New - 3

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 Puniabi 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

13 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kuni, 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

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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. 426 of 2006

M/s Victory International

Appellant

Versus

CC, New Delhi

Respondent

Appearance

Shri V.K. Agarwal, Advocate – for the appellant.

Shri. Vijay Kumar, Authorized Representative (SDR) – for the Respondent.

CORAM : **Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Rakesh Kumar, Technical Member**

DATE OF HEARING : 03/02/2009.

Final Order No. C/72/09 Dated : _____

ORDER

Per. D.N. Panda :-

Learned Counsel Shri V.K. Agarwal is very fair to submit that this case was made by Revenue only leaning under Section 108 of the Customs Act, 1962 without any corroborative evidence to suggest any violation of law made by the Appellant. He submits that the appellant has cooperated to Revenue and paid the duty although such duty is not at all realisable. He further submits that the penalty imposed is unjust and that too the levy to the extent of Rs. 1,00,000/- is very harsh and disproportionate. Therefore, the appellant having all defence to prove that there was no under valuation, is entitled to succeed.

2. Learned DR support the order of the authority below.

3. We heard both the sides and perused the records.

3.1 Learned Appellate Authority confirmed the order of adjudication only on the basis of confessional statement of the Appellant. We do appreciate that the statement recorded under Section 108 is not by a police officer, but that is in the course of judicial proceeding and binding on the person who has given this statement. Law being well settled as to confessional statement under Section 108 of Customs Act, 1962, ^{we} do not propose to intervene to the duty demand. However, we are unable to trace from record whether this is a repeated offence of the appellant to impute for a huge penalty. Therefore, we reduce the penalty to Rs. 10,000/- and allow the appeal of the appellant. Consequential benefit, if any, shall follow accordance with law.

(Dictated and pronounced in open court)

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

PK