

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

Appeal No. C/494 /2006 - CU[DB]

Date 10/07/2009

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

To :
COMMISSIONER OF CUSTOMS, EXPORT
AIR CARGO (EXPORT), NCH, NEW DELHI
110037

COMMISSIONER OF CUSTOMS, EXPORT

M/S. INTEX TECHNOLOGIES INDIA LTD.

Appellant

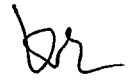
Vs

Respondent

I am directed to transmit herewith a certified copy of Final order No. C/249/

2009 CU[DB] dated 25.06.09

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

M/S. INTEX TECHNOLOGIES INDIA LTD., D-/189/2,
OKHLA INDUSTRIAL AREA, PHASE-II, NEW DELHI.

2. Adv. / Consult MOHAN LAL, ADV.

B-67, FLATTED FACTORIES COMPLEX,
OKHLA PHASE-III, NEW DELHI - 110

020.

3 S.D.R

4 J.C.D.R.

5 Bar association, CESTAT, New Delhi

6 Director Publications, Customs, Excise. I.P. Estate, New Delhi

7 M/s Centax Publications Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3

8 Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar, Chennai -17

9 Raghuraman's 44-B, Regal Flat, Shipra Suncity, Indirapuram - 201010, Ghaziabad, DT, U.P.

10 M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)

11 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017

12 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kuni, New Delhi - 110070

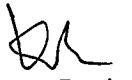
13 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026

14 Easy Service Tax Online Dot Com Pvt.Ltd.407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-15

15 LAWCRUX Advisors Pvt Ltd, LAW House.1-8, Sector - 10, Faridabad 121003 (Haryana)

16 Office Copy

17 Guard file


Assistant Registrar
(Customs Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-III

Date of hearing/decision: 25.6.2009

Customs Appeal No.494 of 2006

Arising out of the order in appeal No.CC(A)/40/ACU/Delhi I/2005 dated 6.10.05 passed by the Commissioner (Appeals), Customs, New Delhi.

For Approval and Signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)

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

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 27 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	W
3	Whether their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

C.C., New Delhi

....

Appellant

Vs.

M/s Intex Technologies Ltd.

....

Respondent

Appearance:

Shri Sushil Kumar, Authorized Departmental Representative (DR) for the Revenue and Shri Mahan Lal, Advocate for the respondent.

Coram: Hon'ble Mr. M. Veeraiyan, Member (Technical)

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

Per P.K.Das: Oral Order No. 4249/09

Per P.K.Das:

Heard both sides and perused the record.

2. The dispute relates to classification of CPU Cooler Fan with Heat sink. The original authority classified the products under sub-heading 8414 59 10. Commissioner (Appeals) classified the same under sub-heading 8473.30 following the decision of the Tribunal in the case of Quantum Hi-Tech Merchandising vs. C.C., Nhava Sheva - 2004 (63) RLT 823 (T).

3. Learned DR on behalf of Revenue submits that the Board vide Circular No.17/2004-Cus, dated 20.2.2004 clarified that CPU Cooler Fan with Heat sink will appropriately be classifiable under 8414 59 10.
4. Learned Advocate on behalf of respondent submits that the Board vide Circular No.36/05 dated 2.9.05 withdrew the earlier Circular No.17/04-Cus, dated 20.2.2004. On perusal of the said Circular, we find that the Board has accepted the Tribunal decision and classification of CPU Cooler Fan with Heat sink under sub-heading 8473.30. At this stage, the learned DR submits that harmonised tariff is in operation classified the said products under 8414 59 10.
5. We are unable to accept the submission of the learned DR in view of the Board's Clarification. It is well settled that Board Circular is binding on the Revenue.
6. Hence, we do not find any reason to interfere with the order of the Commissioner (Appeals). Accordingly, the appeal filed by Revenue is rejected.

(M. Veeraiyan)
Member (Technical)

(P.K.Das)
Member (Judicial)

scd/