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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/652 /2006 - CU[DB] Date 20/07/2009

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

To :
M/S CTS INDUSTRIES LIMITED
3/74, VISHNUPURI, KANPUR

M/S CTS INDUSTRIES LIMITED Appellant
Vs
THE COMMISSIONR OF CUSTOMS & CENTRAL EXCISE, KANPU Respondent

I am directed to transmit herewith a certified copy of **Final order No.** C/259/ 2009 CU[DB] dated 14.07.09 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
   THE COMMISSIONR OF CUSTOMS & CENTRAL EXCISE,
   317/7, SARVODAYA NAGAR, KANPUR - 208005
2. Adv. / Consult
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 Publictions 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 Kunj, 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)

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. 652 of 2006

DATE OF HEARING : 08/7/09.

M/s CTS Industries Limited — Appellant

Versus

CCE, Kanpur — Respondent

Appearance

None – for the appellant.

Shri Fateh Singh, Authorized Representative (DR) – for the Respondent.

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

Final Order No. C/259/09 Dated : ____________

ORDER

Per. D.N. Panda :-

None present for the appellant.

2. The appellant imported slop oil which was found to be hazardous waste and subject to specific user licence. When enquiry started to look into details of the matter in the course of adjudication, the appellant failed to appear before the learned

Adjudicating Authority to submit licence, if any, for import of above goods for verification. The appellant also failed to appear for testing of the goods by customs. Therefore, learned Adjudicating Authority found that the appellant failing to submit for testing of the goods and failing to produce the licence was bound to face the consequences of confiscation of 352 MTs of Slop oil valued at Rs. 16,76,305/- (CIF value) imported vide B/E No. 000035 dated 07/04/06, under the provisions of Section 111 (d) of Customs Act 1962. But an option under section 125 of the Customs Act, 1962 to the Appellant M/s CTS Industries (P) Ltd. was given to redeem the goods only for re-export of the same after payment of a fine of Rs. 1,00,000/- (Rupees One Lakh only). Penalty of Rs. 10,000/- (Rupees Ten Thousand only) was imposed on the Appellant under the provisions of Section 112 (a) (i) of Customs Act 1962. It was also ordered that if the importers do not exercise option of redemption within three months of the date of receipt of this order, the goods in question will stand absolutely confiscated and the importers will have to pay an enhanced penalty of Rs. 4,00,000/- (Rupees Four Lakhs only)."

3. Learned Adjudicating Authority found that the very nature of the goods was appearing under hazardous waste list prescribed under the law. Contention of the appellant that similar nature of goods are sold by Gas Authority of India Limited (GAIL) remained unsupported by any evidence to equate the goods with that of imported goods. The appellant also failed to submit certificate of registration from Central Pollution Central Board or

any other authority to prove its stand that the Slop oil imported was not a hazardous waste. Similarly, the authority found that the value declared by the appellant was questionable. With the aforesaid findings and consequences the order-in-original was passed.

4. Learned DR appearing for the Revenue supports case for Revenue relying on the order-in-original.

5. None being present for the appellant. We made exercise to notice the material facts on record and stated the same in paragraph 2 and 3 above. Having come to the conclusions that there is no material on record to impeach findings of learned Adjudicating Authority, his order is upheld and appeal of the appellant is dismissed.

(Dictated and pronounced in open court)

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

PK