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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/417 /2006 - CU[DB] Date 13/01/2009

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

To :
COMMISSIONER OF CUSTOMS(PREV)
COMMISSIONERATE, AMRITSAR

COMMISSIONER OF CUSTOMS(PREV) Appellant

Vs

M/S. SABAR INTERNATIONAL Respondent

I am directed to transmit herewith a certified copy of **Final order No. C/08 2009 CU[DB]** dated 06.01.2009

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. SABAR INTERNATIONAL, 576-A,
KATRA ISHWAR BHAWAN, KHARI BAOLI, DELHI
2. Adv. / Consult MR. H.S. MEW, ADV.,
C/O M/S. SABAR INTERNATIONAL, 576-A,
KATRA ISHWAR BHAWAN, KHARI BAOLI, DELHI

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 - 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 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
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 Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI
COURT – III

CUSTOMS APPEAL NO. 417 OF 2006

[Arising out of Order-in-Appeal No. 25/Cus/Appl/Jal/2006 dated 28.2.2006 passed by the Commissioner (Appeals), Customs & Central Excise, Jalandhar (Hqrs. At Chandigarh)]

For approval and signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical);
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?	No
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
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

Commissioner of Customs (Prev.),
Amritsar — Appellant

Vs.

M/s. Sabar International — Respondent

Appearance:

Shri Sunil Kumar, Departmental Representative, for the Revenue,
Shri H.S. Mew, Advocate for the respondent

Coram:

Hon'ble Mr. M. Veeraiyan, Member (Technical);
Hon'ble Mr. P.K. Das, Member (Judicial)

Date of Hearing/decision: 6th January, 2009

FINAL ORDER NO. C/8/09 **dated** ________

Per M. VEERAIYAN:

This appeal is filed by the department against order of the Commissioner (Appeals) No. 25/Cus/Appl/Jal/2006 dated 28.2.2006.

2. Heard both sides.

3. The relevant facts, in brief, are as follows:-

(a) The respondent imported dry fruits from Afghanistan via Pakistan through Lahore – Attari – Amritsar railway line and produced AIPTA certificate claiming concessional rate of duty under notification No. 76/2003-Cus dated 13.5.2003.

(b) The original authority held that the goods have been imported through route which is not authorized as per route mentioned in notification No. 63/94-Cus(NT) dated 21.11.94 and confiscated the goods and allowed the same on redemption fine and imposed penalty. He also disallowed the benefit of exemption notification on the ground that import has taken place through non-permissible route.

(c) On appeal by the party, the Commissioner (Appeals) upheld the confiscation of the goods for having been imported in violation of notification No. 63/94-Cus. However, he reduced the redemption fine from Rs. 5,86,000/- to Rs. 3,50,000/- and penalty from Rs. 1,05,000/- to Rs. 50,000/-. However, taking note of the fact that notification No.

76/2003-Cus is not subject to the condition relating to import of a specified route ~~and~~ allowed the exemption. Hence, the department is in appeal.

4. Learned D.R. reiterates the findings and reasoning of the original authority and the grounds of appeal.

5.1 We find that the Commissioner (Appeals) has allowed the benefit of exemption notification with the following findings:-

"The perusal of above notification will reveal that there is no mention of any specific route in this notification or any rider regarding route to be adopted for availing benefit under this notification. Therefore, the denial of benefit of concessional rate of duty by the adjudicating authority in terms of notification No. 76/2003-Cus (NT) dated 13/05/2003 is not correct and legal. It is settled law that exemption Notifications are to be strictly construed. The provisions of this Notification as amended are to be read and interpreted in its plain meaning. **In the case of CCE Trichy Vs. M/s. Rukkwell Traders reported as 2004 (165) ELT 981 (SC), it has been held by the Supreme Court that strict construction of a notification is to be done in terms only of their own words-Wordings of other notification are of no benefit in construing a particular notification – Reasoning having effect of adding words to Notification cannot be adopted**. The ratio of this judgment of Hon'ble Supreme Court is squarely applicable in the instant case. In view of above it is to be held that concessional rate of duty shall be admissible to the appellants in terms of notification No. 76/2003-Cus (NT) dated 13/05/2003 in respect of imports by the appellants independent of the conditions that any other notification (i.e. 63/94 ibid in the instant case) may provide for."

5.2 The confiscation of the goods for violating the condition of the non-tariff notification specifying the route of import has been upheld by the Commissioner and the same has not been contested on appeal by the party. However, for denying the benefit of exemption notification there is no condition regarding route of import. Therefore, we do not find any reason to interfere with the order of the Commissioner (Appeals).

6. Appeal by the department is, therefore, rejected.

(Dictated & pronounced in the Open Court.)

(M. VEERAIYAN)
MEMBER (TECHNICAL)

(P.K. DAS)
MEMBER (JUDICIAL)

RK