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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/555-556 /2006 - CU[DB] Date 31/03/2009

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

To :
C.C.DELH III,GURGAON

UDYOG VIHAR,UDYOG MINAR,VANIJYA
NIKUNJ,PHASE-V,GURGAON.

C.C.DELH III,GURGAON Appellant

Vs

M/S RAJDHANI IMPEX Respondent

I am directed to transmit herewith a certified copy of **Final order No. C/110-111 /09 CU[DB]** dated 23.03.09

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 RAJDHANI IMPEX,
PLOT/KHASRA NO 12/14,
NANGALI SARASWATI,N.DELHI – 110 043.

2. Adv. / Consult

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,Ch
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,Ahmedaba
15 Office Copy
16 Guard file

Assistant Registr
(Customs Appeal Branc

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Customs Appeal Nos. 555 & 556 of 2006

(Arising out of Order-in-Appeal No. 234/NS/GGN/2006 and 198/NS/GGN/2006 both dated 10.08.2006 passed by the Commissioner of Central Excise (Appeals), Delhhi-III, Gurgaon).

DATE OF HEARING : 23.03.2009
DATE OF DECISION : 23.03.2009

FOR APPROVAL AND SIGNATURE :

HON'BLE MR. JUSTICE R.M.S. KHANDEPARKAR, PRESIDENT
HON'BLE MR. M. VEERAIYAN, MEMBER (TECHNICAL)

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 should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not ?	NO
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

CCE, Delhi .... **Appellants**
(Rep. by Sh. Fateh Singh, DR)

VERSUS

M/s Rajdhani Import .... **Respondent**
(Rep by NONE)

CORAM : HON'BLE MR. JUSTICE R.M.S. KHANDEPARKAR, PRESIDENT
HON'BLE MR. M. VEERAIYAN, MEMBER (TECHNICAL)

Final **ORAL ORDER NO.** C/110-111/09

PER M. VEERAIYAN :

Both these appeals by the Department, involving the same respondent, involve a common issue and, therefore, are being disposed of by a common order.

2. The respondents imported old and used monitors, CPUs and keyboards of assorted sizes & brands, and declared average value of Rs. 508.2 for each monitor and Rs. 1155/- for each CPU & keyboard. The second hand computers required licence and the respondents were not having valid licence for import of the same. The Chartered Engineer was engaged and he arrived at the value on an average basis and accordingly recommended Rs. 1100/- for each monitor and Rs. 2500/- for each CPU and Rs. 50/- for each keyboard.

3. The original authority adopted the enhanced value on the basis of Chartered Engineer's certificate for the purpose of assessment and confirmed the demand of duty on the enhanced value. He also ordered confiscation of the goods for violation of licensing conditions and allowed redemption on payment of fine of Rs. 5 lacs and imposed penalty of Rs. 4 lacs in one case; and allowed redemption on payment of fine of Rs. 4 lacs and imposed penalty of Rs. 3 lacs in another case.

4. The Commissioner (Appeals) taking into account that the monitors, CPUs and keyboards were of different brands,

types and sizes, held that, the method adopted by the Chartered Engineer to arrive at average value was not reliable and accordingly accepted the transaction value declared by the respondents. While he upheld the order of confiscation for violation of licensing conditions, in view of the acceptance of lower value, he has reduced the redemption fine and penalty.

5. After hearing the learned DR and considering the grounds of appeal and on perusal of record, we agree with the decision of the Commissioner (Appeals) in not relying on the values in the Chartered Engineer's certificate for assessment purposes as the same are not specific in respect of each variety of the monitor, CPU and keyboard with regard to the relevant details like brand, year of manufacture and model. We, therefore, do not find any reason to interfere with the order of the Commissioner (Appeals) and accordingly reject both the appeals by the Department.

(JUSTICE R.M.S. KHANDEPARKAR)
PRESIDENT

(M. VEERAIYAN)
MEMBER (TECHNICAL)

Golay