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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/918 /20005 - CU[DB] Date 04/05/2009

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

To :
M/S GEETA VINAY IMPEX
V-5, GREEN PARK MAIN,
NEW DELHI – 110 016

M/S GEETA VINAY IMPEX Appellant
Vs
ADDITIONAL COMMISSIONER CENTRAL EXCISE & CUSTOMS, Respondent.

I am directed to transmit herewith a certified copy of **Final order No. C/158/ 2009 CU[DB]** dated 28.04.09

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
ADDITIONAL COMMISSIONER OF CUSTOMS,
VANIJYA NIKUNJ, UDYOG VIHAR, PHASE-V, GURGAON
2. Adv. / Consult
MR.T.P.S.KANG, ADV.
F-71, MOTI BAGH-I, NEW DELHI - 110021.
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
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Assistant Registrar
(Customs Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

COURT NO. II

Custom Appeal No. 918 of 2005-Cust. Br.

(Arising out of Order-in-Appeal No. 377-379/GRM/GGN/2005 dated 27.10.2005 passed by Commissioner of Central Excise & Customs (Appeals), Gurgaon, Haryana)

M/s Geeta Vinay Impex — Appellant

Vs.

CC, Gurgaon — Respondent

Appeared for Appellant : None

Appeared for Respondent: Shri Vijai Kumar, DR

Date of Hearing: 20.4.2009

CORAM: HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER
HON'BLE MR. RAKESH KUMAR, TECHNICAL MEMBER

Final Order No. C/158/09 dated.................

Per D.N. Panda :

When the matter was called none present for the Appellant. Therefore we require assistance from Revenue. Ld. DR submitted that there was mis-declaration as to the quantity of the goods imported for which both the Authorities have made concurrent finding warranting the levy of confiscation.

2. Heard Revenue and perused the record. The record exhibits that when the consignment was imported that contained excess quantity over and above the quantity declared. When the authorities asked for the evidence as to why there was quantity difference in the consignments, the Appellant claimed that quantity discount was customary and that has been extended to the Appellant when goods were imported. No evidence was produced before the Authorities in this respect. Therefore the Authorities proceeded with the charge of excess quantity of goods imported and held the deal to be a case of mis-declaration. They have inferred that the additional quantity gave rise to higher value of the imports. Ld. Adjudicating Authority had no other alternate to proceed against the Appellant to pass the order with penal consequence of law. So also duty was imposed.

3. We have noticed that the Appellant had waived right to reply to the show cause notice. Once there was a waiver, the appellant preferred to adduce no evidence in support of its claim. This establishes the ground of the adjudication that the appellant has no evidence to show about the quantity discount of the goods. Ld. Appellate Authority had made an exercise to examine contention of the appellant as to the value. He has rightly rejected the valuation claimed by the Appellant holding that the mis-declaration does not confer any right to plead acceptance of the value declared. We are satisfied that the excess quantity of goods contributed to the excess

value. The case does not provide any scope to hold other than the case of misdeclaration. Therefore we dismiss the appeal of the appellant and confirm the concurrent finding of the Authority below.

(Dictated & pronounced in open Court)

(D.N. PANDA)
JUDICIAL MEMBER

(RAKESH KUMAR)
TECHNICAL MEMBER

RM