TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

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

Appeal No. C/891 /2005 - CU[DB]   Date : 13/05/2009

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

To : THE COMMISSIONER OF CUSTOMS, JAIPUR
NCRB, STATUE CIRCLE, C-SCHEME, JAIPUR

THE COMMISSIONER OF CUSTOMS, JAIPUR   Appellant
Vs
M/S AJAY KUMAR   Respondent

I am directed to transmit herewith a certified copy of **Final order No. C/184/ 2009 CU[DB]** dated 11.05.09 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 AJAY KUMAR,
H-532, PHASE-I,
RIICO INDUSTRIAL AREA,
BHIWADI, RAJASTHAN.
2. Adv. / Consult M/S BHASIN SETHI & ASSOCIATES,
401, SATYAM CINEMA BLDG., RANJIT NAGAR,
NEW DELHI – 110 008.
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)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

COURT NO. II

Custom Appeal No. 891 of 2005-Cust. Br.

(Arising out of Order-in-Appeal No. 21(MPM)CUS/JPR-I/2005 dated 19.7.2005 passed by the Commissioner (Appeals), Customs & Central Excise, Jaipur)

CC, Jaipur — Appellant

Vs.

M/s Ajay Impex — Respondent

Appeared for Appellant : Shri Sunil Kumar, DR

Appeared for Respondent: Shri V.R. Sethi, Advocate

Date of Hearing: 29.4.2009

CORAM: HON'BLE DR. C. SATAPATHY, TECHNICAL MEMBER
HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER

Final Order No. C/184/09 dated............

Per Dr. C. Satapathy :

Heard both sides.

2. Shri V.R. Sethi, ld. Advocate appearing for the Respondent states that the valuation in this case has been done applying the comparable value method, hence the orders passed by the Authorities below do not require any modification.

2. Shri Sunil Kumar, ld. DR appearing for the Department states that the Authorities below have not given reference to the

assessment document from which they have used value of comparable goods. They have also ignored the market verification report while making assessment. At this stage, ld. Advocate Shri Sethi states that the market verification report was not made available to the Respondents.

3. After hearing both sides and on perusal of the case records, we are of the view that the market verification report was not made available to the Respondents and the details of the assessments on which reliance has been placed for adopting the comparable value method was not brought out in the order in the interest of transparency. In view of these deficiencies noticed, we set aside the impugned order and remand the matter to the Adjudicating authority for fresh decision who shall afford an adequate opportunity of hearing to both sides before passing a fresh order. The Department's appeal is allowed by way of remand.

(Dictated & pronounced in open Court)

(DR. C. SATAPATHY)
TECHNICAL MEMBER

(D.N. PANDA)
JUDICIAL MEMBER

RM