

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

Appeal No. C/653 /2006 - CU[DB]

Date 20/07/2009

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

To :
C.S.T. KANPUR
117/7, SARVODAYA NAGAR, KANPUR
208005
C.S.T. KANPUR

Appellant

Vs
Respondent

M/S NORTHERN TANNERY

I am directed to transmit herewith a certified copy of Final order No. C/253/

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

M/S NORTHERN TANNERY

JAJMAU, KANPUR

2. Adv. / Consult MR. RUPESH KUMAR, ADV.
46, BANK ENCLAVE, DELHI - 92.

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 Publications 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 Kuni, 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, I-8, Sector - 10, Faridabad 121003 (Haryana)

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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. 653 of 2006

DATE OF HEARING : 08/7/09.

CCE, Kanpur

Appellant

Versus

M/s Northern Tannery

Respondent

Appearance

Shri Fateh Singh, Authorized Representative (DR) - for the appellant.

Shri Rupesh Kumar, Advocate - for the Respondent.

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

Final

Order No. 01253/09 Dated : _____

ORDER

Per. D.N. Panda :-

Revenue has come in appeal against the remand order passed by the learned Commissioner (Appeals) resulting in sending of the matter back to the learned Adjudicating Authority to carry out the direction given by him by his order dated 19/10/06. Learned DR Shri Fateh Singh argues that when there is a report of CRCL, Delhi that cannot be disputed. Accordingly, learned Commissioner should not have decided the matter to remand.

2. Learned Counsel Shri Rupesh Kumar is fair enough to state that learned Commissioner (Appeals) has made an extensive examination of the matter in page 3 and 4 of the Appellate Order and has categorically noticed that the Mineral Oil is not used in the leather industry as per averment of the appellant before him for which there was desirability of another testing by an authentic laboratory.

3. Heard both sides and perused the records.

3.1 We have gone through the speaking order passed by the learned Commissioner (Appeals). That appears to be reasoned. His decision to remand the matter was found to be justified on the facts of the case to follow the principles of natural justice and to test the material by an authentic laboratory to resolve the controversy. In all fairness, it would be proper to ~~hear~~ the respondent granting reasonable opportunity of defence when a report from authentic laboratory as suggested by the learned Commissioner (Appeals) reaches. Finding no irrationality in the operative part of the order passed by learned Commissioner (Appeals), it requires to dismiss the appeal of Revenue so as to give effect to his order.

(Dictated and pronounced in open court)

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

PK