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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/18 /2007 - CU[DB] Date 20/07/2009

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

To :
M/S HIMAC POLY FILMS (P) LTD.
LSC - 7, SECTOR 5, ROHINI, DELHI
110085

M/S HIMAC POLY FILMS (P) LTD. Appellant

Vs

C.C. NEW DELHI Respondent

I am directed to transmit herewith a certified copy of **Final order No.** C/256/ 2009 CU[DB] dated 9.07.09

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
   C.C. NEW DELHI, ICD,
   TUGHLAKABAD, NEW DELHI - 110020
2. Adv. / Consult
   MR.PREM RANJAN KUMAR, LG-F1, E-13/29
   HARSH BHAWAN, CONNAUGHT PLACE, N.DELHI.
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
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

C/Appeal No.18/2007

(Arising out of order in Appeal No. CC/A/83/ICD/D.II/06 dated 13.10.06 passed by the Commissioner of Central Excise (Appeals), New Delhi)

M/s Himac Poly Films (P) Ltd — Appellant

Vs

CCE, Tughlakabad — Respondent

Appeared for the Appellant : Shri Prem Ranjan, Advocate
Appeared for the Respondent : Shri Sansar Chand, SDR

Coram: **Hon'ble Mr.D.N. Panda, Judicial Member**
Hon'ble Mr. Rakesh Kumar, Technical Member

Date of Hearing: 1.7.09

Final Order No.C/256/09 /2009

Per D.N. Panda:

The short question involved in this appeal is whether the value of goods declared by the appellants in respect of High Sea Sale made by M/s Arun Sales Corporation is only to be increased by 2% extra as per agreement between the appellants and the said High Sea Sale transaction. The appellant submitted that it was agreed between the parties that price in respect of High Sea Sale to M/s Arun Sales Corp shall be charged at US $ 31,050 plus 2% arriving at US $ 31,671. This is followed practice in respect of High Sea Sales. Learned Counsel relies on the decision of the Tribunal in the case of CCE Vs. Seven Computers Corporation Ltd reported in 2002 (149) ELT 1105 (Trib.-Chen) in support of his contention. According to the learned Counsel, the transaction value in the present appeal should be the price at which both the parties agreed for sale and no contradictory evidence is on record of Revenue to deny this. Accordingly, the appellant should be directed to discharge the duty liability on the value of US $ 31,671 for the respective goods.

2. Learned DR supports the order of the authority below.

3. Heard both the sides and perused the record.

4. We are unable to find any ulterior motive of the appellant in the valuation claimed aforesaid by the appellant. There is no evidence on record to disturb the agreed value between the parties. It is noted from page 16 of the appeal folder that both parties to the deal have made clear that the consideration for sale shall be 31,671 US $. In absence of any evidence to interfere, we direct that the sale 31671 US $ would be proper and this is taking note of the decision of the Tribunal cited above.

5. In the result, appeal is allowed with the aforesaid direction, modifying the impugned order.

(Order dictated and pronounced in the open Court).

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

MPS*