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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/220 /2007 - CU[DB] Date 24/07/2009

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

To :
M/S WESTERN TOBACCO LTD.
RELIABLE HOUSE, A-6, KOHEFIZA,
INDORE ROAD, BHOPAL-462001.(M.P.)

M/S WESTERN TOBACCO LTD. Appellant

Vs

C.C.E. INDORE Respondent

I am directed to transmit herewith a certified copy of **Final order No.** C/299/ 2009 CU[DB] dated 23.06.09 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.E. INDORE, MANIK BAGH PALACE,
POST BOX NO. 10, INDORE 452001 (M.P.)
2. Adv. / Consult
MR.V. LAXMIKUMARAN, ADV., B-6/10,
SAFDARJUNG ENCLAVE, NEW DELHI-110029
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)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III

Customs Appeal No. 220 of 2007

[Arising out of Order-in-Appeal No. IND-I/44/2007 dated 28.2.2007 passed by Commissioner (Appeals I) Customs & Central Excise, Indore, MP]

For approval and signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K.Das, Member (Judicial)

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1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? :
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? :
4. Whether Order is to be circulated to the Departmental authorities? : Yes

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M/s. Western Tobacco Ltd. — Appellant

Vs.

Commissioner of Customs
Central Excise, Indore — Respondent

Appearance:

Shri B.L. Narasimhan, Advocate for the Appellant
Shri Sansar Chand, SDR for the Respondent

CORAM:

Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K.Das, Member (Judicial)

Date of Hearing/decision : 23.6.2009

Final **ORDER NO. C/299/09**

Per P.K.Das (for the Bench):

Heard both sides and perused the records.

2. Relevant facts of the case, in brief, are that the appellants filed Bill of Entry No. 100725 dated 1.11.06 for the consignment of cigarette paper declaring CIF value of $ 4.00 per bobbin. The original authority ordered the assessment at $ 6.88 per bobbin on the basis of contemporary Bill of Entry No. 1069 dated 8.5.06. Commissioner (Appeals) modified the adjudication order to the extent the price was reduced from $ 6.88 per bobbin to $ 6.10 per bobbin on the basis of importation for the same goods by the appellants in January 2006. Hence, the appellant filed this appeal.

3. The learned advocate on behalf of the appellants submits that the earlier import was in January, 2006. Thereafter, price was drastically reduced to $ 4.00 per bobbin. He also submits that Commissioner (Appeals) erroneously proceeded on the basis of importation in January, 2006 which cannot be treated as contemporaneous price. He also submits that the appellant imported the goods and produced the purchase order. So, there is no reason to discard the declared price.

4. Learned DR reiterates the findings of the Commissioner (Appeals). He submits that the contention of the appellant that the price was drastically reduced is without any basis. On the contrary, contemporaneous price by

Bill of Entry dated 8.5.06 is available at \$ 6.88 per bobbins. He also submits that present case is in respect of Bill of Entry dated 1.11.06.

5. After hearing both the sides and on perusal of the records, we find force in the submissions of the learned DR. It is seen that the original authority enhanced the value on the contemporaneous Bill of Entry dated 8.5.06 and in the present case Bill of Entry is dated 1.11.06. There is no material available for drastic reduction of the price. In any event, Commissioner (Appeals) has rightly reduced the ~~enhancement of~~ the price following the appellants own importation in January, 2006 even the contemporaneous price is marginally ~~invariably~~ higher.

6. In view of the above discussions, we find that there is no reason to interfere with the order of the Commissioner (Appeals). Accordingly, the appeal filed by the appellant is rejected.

(Pronounced in the open Court on 23.6.09)

(M. Veeraiyan)
Member(Technical)

(P.K.Das)
Member(Judicial)

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