

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

Appeal No. C/62 /2007 - CU[DB]

Date 04/08/2009

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

To :
M/S BHAWANI TRADERS
WZ- 3033, SANT NAGAR, RANI BAGH, DELHI.
M/S BHAWANI TRADERS

Appellant

Vs
Respondent

C.C.FARIDABAD

I am directed to transmit herewith a certified copy of Final order No. C/325/ 2009 CU[DB] dated 28.07.09

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.FARIDABAD, NEW CGO COMPLEX,
NH-IV, FARIDABAD.

2. Adv. / Consult

MR.PREM RANJAN KUMAR, ADV., LGF-6/33,
VIKRAM VIHAR, LAJPAT NAGAR-IV, N.D. - 24.

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 Puniabi 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 (Harvana)

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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. 62 of 2007

DATE OF HEARING : 22/7/09.

M/s Bhawani Traders

Appellant

Versus

CC, Faridabad

Respondent

Appearance

Shri Prem Rajjan, Advocate - for the appellant.

Shri S.R. Meena, Authorized Representative (SDR) - for the Respondent.

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

Final Order No. C/325/09 Dated : _____

ORDER

Per. D.N. Panda :-

Learned counsel Shri Prem Ranjan points out that contemporaneous evidence was not confronted nor ^{N/D}~~N/D~~ data which was the basis for valuation was exposed to the appellant for rebuttal. The valuation of the appellant in respect of the import was 715 U.S. \$ per M.T. The goods was Korean origin Ethylene Vinyl Acetate (EVA-1316). The declared value was enhanced to 970 U.S. \$ per M.T. For no evidence confronted to the appellant for rebuttal, the adjudication was

arbitrarily. Therefore, that is liable to be set aside.

2. Learned DR submits that when ~~NIBD~~^{NIDB} data for similar goods proves the stand of the Department for proper valuation at 970 U.S. \$ per M.T. and that was in relation to bill of entry No. 454588 dated 30th September 2005 and bill of entry No. 457814 dated 15/10/2005, the appellant was properly dealt under the law when its import was only two months thereafter vide bill of entry No. 51 dated 4/1/2006. Accordingly, Revenue's prayer is to uphold the adjudication.

3. Rival contention of both the sides call for examination of evidence. The evidence that should receive consideration is the contemporaneous evidence relied by revenue which needs exposure to the appellant for defence. Similarly, ~~NIBD~~^{NIDB} data, if any, that also needs confrontation for rebuttal. Accordingly, learned Commissioner shall expose these two pieces of evidence to the appellant for opportunity of rebuttal, whereby the appellant may be dealt under the law properly. This appeal is therefore remanded to the learned Adjudicating Authority to grant fair opportunity of hearing to the appellant and consider pleadings of the appellant, if any, made in the course of hearing and deal the matter in accordance with law.

(Dictated and pronounced in open court)

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

PK