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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/138, 155-156, 170 /2007 - CU[DB] Date 04/08/2009

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

To :
C.C. DELHI
ICD, TUGHLAKABAD,
NEW DELHI – 110 020

C.C. DELHI Appellant
Vs
M/S S.R. IMPEX Respondent

I am directed to transmit herewith a certified copy of **Final order No.** C/326-329/ 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
M/S S.R. IMPEX, FLAT NO 138-A, BLOCK NO 1,
PLATINUM ENCLAVE, SECTOR 18,
ROHINI, NEW DELHI - 110 085.
2. Adv. / Consult MR. PREM RANJAN, ADV.
LGF – 6/33, VIKRAM VIHAR,
LAJPAT NAGAR, NEW DELHI – 110 024.

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)
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Assistant Registrar
(Customs Appeal Branch)

PTO

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

DATE OF HEARING : 22/7/09.

Customs Appeal No. 138 of 2007

CC, Delhi — Appellant

Versus

M/s S.R. Impex — Respondent

Appearance

Shri Sansar Chand, Authorized Representative (SDR) – for the appellant.

None – for the Respondent.

Customs Appeal No. 155 of 2007

CC, New Delhi — Appellant

Versus

M/s Maruti Trading Co. — Respondent

Appearance

Shri Vijai Kumar, Authorized Representative (SDR) – for the appellant.

None – for the Respondent.

Customs Appeal No. 156 of 2007

CC, New Delhi — Appellant

Versus

M/s Y.S. Enterprises — Respondent

Appearance

Shri Vijai Kumar, Authorized Representative (SDR) – for the appellant.

Shri Prem Ranjan, Advocate – for the Respondent.

Customs Appeal No. 170 of 2007

CC, New Delhi Appellant

Versus

M/s Deepanshu Agencies Respondent

Appearance

Shri Sansar Chand, Authorized Representative (SDR) – for the appellant.

None – for the Respondent.

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

Final Order No. C/326-329/08 Dated : ____________

ORDER

Per. D.N. Panda :-

None present for the respondent in appeal case No. C/138 of 2007, C/155 of 2007 and C/170 of 2007. Shri Prem Ranjan, learned counsel is present in appeal case No. C/156 of 2007.

2. Principal grievance of revenue in all these four appeals is that when the imports were done and the ~~valuation~~ value was loaded,

the finding was unquestioned by the importers, and therefore they are deemed to have consented for the valuation. After according consent by the Respondents without disputing valuation, they have gone to the learned Appellate Authority below and retracted their stand what that they had before the learned Assessing Authority. Therefore, revenue is aggrieved by the appeal order passed by the learned Commissioner in all these four appeals. Revenue gets support for its above from the Circular No. 91/2003-CUS dated 14th October 2003. Codified procedure was prescribed in respect of consented valuation of imported goods. Revenue having no opportunity to appear before the learned Commissioner (Appeals) to prove its stand, it prays that if all these four appeals goes back to the learned Commissioner (Appeals), revenue shall have opportunity to prove its stand for passing appropriate order.

3. Shri Vijai Kumar, learned DR specifically brings out that in appeal case No. C/155 of 2007 the first appellate order is in respect of the appellant M/s Maruti Trading Co. while there was a bill of entry No. 542572 dated 13/10/06 and No. 534055 dated 11/9/06, in the name of Aggarwal Trading Company. If this is the position, learned Commissioner (Appeals) should not have overlooked this aspect. Law does not permit a person who was not aggrieved to be appellant before an Appellate Authority. We make it clear that since all the four appeals are proposed to be remanded, this grievance of Revenue shall be taken care by learned first Appellate Authority.

4. Heard both the sides and perused the record. Noticing that revenue has been aggrieved for no opportunity availed before the learned Commissioner (Appeals) for raising their plea as has been raised aforesaid, it would be proper to send back all the four appeals to the learned Commissioner (Appeals) for granting fair opportunity of hearing to Revenue. If fair opportunity is granted to both the sides during the remand proceeding, there may not be any grievance from either side. Accordingly, we set aside the impugned orders and remand all the four appeals of revenue to the learned Commissioner (Appeals) for passing appropriate order.

(Dictated and pronounced in open court)

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

PK