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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/237-239 /2008 - CU[DB] Date 15/12/2009

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

To :
C.C. ICD, TUGHLAKABAD,
NEW DELHI 110020.

C.C. (ICD) NEW DELHI Appellant

Vs

M/S SITA TRADERS, Respondent

I am directed to transmit herewith a certified copy of Final order No. C/423-425/ 2009 CU[DB] dated 09.12.09 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 SITA TRADERS, A-6/234,
PASCHIM VIHAR,NEW DELHI - 63.

2. Adv. / Consult MR.L.P. ASTHANA, ADV.
R-163, S.F., G.K. –I,
NEW DELHI – 48

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 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)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

C/Appeal Nos. 237-239/2008-Cus(Br)

(Arising out of order in appeal No.CC(A)/Cus/ICD/D.II/259/07 dated 31.12.2007 passed by the Commissioner of Central Excise (Appeals), New Delhi)

CC, New Delhi — Appellant

Vs

M/s Sita Traders — Respondent

Appeared for the Appellant : Shri Mahesh Rastogi, SDR
Appeared for the Respondent : Shri L.P. Asthana, Advocate
Shri P. Ranjan, Advocate

Coram: **Hon'ble Mr. M. Veeraiyan, Technical Member**
Hon'ble Mr. D.N. Panda, Judicial Member

Date of Hearing: 7.12.09

Final Order No. C/423-425/09 /2009

Per D.N. Panda:

In all these three appeals, the issue involved relates to determination of assessable value in respect of the imports made through different Bills of Entry. The Respondents imported goods through three different invoices i.e. Invoice dated 7.9.2007 involved in Appeal case No.237/07, Invoice dated 22.8.07 involved in Appeal case No.238/07 and Invoice dated 24.8.07 involved in Appeal case No.239/07. There were different types of goods imported through these invoices. Respondents waived requirement of show cause notice at the time of import for clearance of goods. But they requested for personal hearing. However ~~But~~ Appeal record does not reveal any such request nor any adjudication order exists.

2. Being aggrieved by decision of Authority below, the respondents went in appeal before the learned First Appellate Authority. That Authority allowed appeals of the Respondents with consequential relief subject to verification.

3. Revenue being aggrieved by aforesaid order of learned first Appellate Authority has come in appeal against all the three appeal orders challenging the result of appeals. Learned SDR submits that when there was discrepancy in the value declared, the assessable value was to be enhanced and that was done. But the learned Appellate Authority should not have allowed the appeals.

4. The respondent on the other hand, supports order of the learned first Appellate Authority.

5. We have extensively heard the matter to find out the very basis of questioning the valuation. In absence of show cause notice, no head or tail could be made out. We do not find any recorded order passed in adjudication. The only basis for enhancement was NIDB data. Learned Commissioner in page 8 of order has given reason for which NIDB data cannot be basis in these cases. There is nothing coming from the first appellate order to hold that the order suffers from legal infirmity. Finding that Revenue has not brought out any material for contradiction, we are not inclined to interfere with the order passed by the learned

first Appellate Authority. Accordingly, all the three appeals of Revenue are rejected.

(Order dictated and pronounced in the open Court).

(M. Veeraiyan)
Technical Member

(D.N. Panda)
Judicial Member

MPS*