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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/206 -209/2007 - CU[DB] Date 31/12/2009

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

To :
C.C. (PREVENTIVE) AMRITSAR
CUSTOM HOUSE, CENTRAL REVENUE BUILDING,
THE MALL, AMRITSAR 143001.

C.C. (PREVENTIVE) AMRITSAR — Appellant

Vs

M/S CHAMPION PHOTOSTAT INDL. CORP. — Respondent

I am directed to transmit herewith a certified copy of **Final order No.** C/429-432/ 2009 CU[DB] Dated 30.12.09 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 CHAMPION PHOTOSTAT INDL. CORP.
17, DEV COLONY, DELHI ROAD, ROHTAK, HARYANA.

2. Adv. / Consult MR. HEMANT BAJAJ, ADV.
A-5, (BASEMENT), LAJPAT NAGAR-III,
NEW DELHI – 110 024.

MR. ATUL GUPTA, C.S.
B-1/1289,A-Vasant Kunj,
New Delhi – 70.

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)

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IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
NEW DELHI, PRINCIPAL BENCH NEW DELHI

Customs Appeals Nos.206-209 of 2007-Cusotms Branch

[Arising out of Order-in-Appeal No.01/CUS/APPL/LDH/2007 dated 15.01.2007, Order-in-Appeal No.03/CUS/APPL/LDH/2007 dated 15.01.2007 and Order-in-Appeal No.04/CUS/APPL/LDH/2007 dated 15.01.2007 passed by the Commissioner of Central Excise (Appeals), Chandigarh]

**Date of Hearing/ Decision:11.12.2009**

For approval and signature:

**Mr. M. Veeraiyan, Member (Technical)**

Mr. D. N. PANDA, Member (Judicial)

1. Whether Press Reporters may be allowed to see CESTAT (Procedure) Rules, 1982. Yes
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? : Seen
4. Whether Order is to be circulated to the Departmental authorities? : Yes

CC, Amritsar ...Appellant
(Rep. by Shri Sansar Chand, SDR)

Vs.

(1)M/s. Champion Photostat Indl.Corpn.
(2)M/s.Viran Impex
(3)M/s.Om Udyog
(4)M/s.Pulse Copiers ...Respondents
(Rep. by Shri Hemant Bajaj, Shri Saurabh Kapch, Shri Atul Gupta, Co. Secretary)

CORAM: **Hon'ble Mr. M. Veeraiyan, Member (Technical)**
**Hon;ble Mr. D.N. Panda, Member (Judicial)**

Final

Order No. C/429-432/09 /Dated:11.12.2009

***Per M. Veeraiyan:***

These appeals by the Department involve common issues and accordingly, they are being disposed of by a common order.

2. Heard both sides.

3. The relevant facts, in brief, are that two of the respondents imported old and used photocopiers and two others imported used computer and other parts. The imports required licences and the licences were not produced for clearance. In each of the case, the values declared by the respondents for the said old and used items were enhanced on the basis of the Chartered Accountant's certificates. The enhancement of the value has not been challenged by the respondents. The Original Authority while confiscating the goods imposed certain quantum of redemption fine and penalty. The orders of the Original Authority do not indicate the relevant factors like the profit margin, the other expenses incurred by the respondents while determining the redemption fine and penalties. The Commissioner (Appeals) in his order taking into account the market prices of the imported items, the expenses towards detention and demurrge and other relevant factors came to the conclusion that the profit margin available to the respondents were not much and accordingly, while upholding the confiscation and penalties, he reduced substantially the redemption fine and penalty in each case.

4. Ld. SDR submits that there is steep reduction in quantum of redemption fine and penalty as compared to what was imposed by the Original Authority, in each case and that such reduction is not justified.

5. Ld. Advocates for the respondents submit that violation of the licensing was not being disputed. The value was increased by the Original Authority and having invested towards import, they were forced to accept the enhanced values and they have incurred expenses towards detention and demurrage charges and other expenses. All these were taken into account and the redemption fine and penalties have

been reduced by the Commissioner (Appeals). They seek upholding of the order of the Commissioner (Appeals).

6. We have considered the submissions from both the sides and perused the records. We find that the Additional Commissioner while fixing the redemption fine and penalty has not given any reason whatsoever justifying the level of redemption fine and penalty. On the other hand, the Commissioner (Appeals) in his order has taken into account the various submissions and given reasoning for the reduction in the redemption fine and penalty in each case. It is seen that the Commissioner (Appeals) has upheld the orders of confiscation and the disputes relates only to the quantum of redemption fine and penalty. The grounds of appeal do not indicate the evidence to assail the reasoning adopted by the Commissioner (Appeals) to reduce the redemption fines and penalties. We, therefore, do not find any merits in the appeals by the Department.

7. The appeals are, therefore, rejected.

Order dictated & pronounced in open court on 10.12.2009.

( M. Veeraiyan )
Member (Technical)

( D.N. Panda )
Member (Judicial)

Ckp.