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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/585 /2006 - CU[DB]

Date 27/09/2010

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

To :
C.C.ROHTAK
17 P,SECTOR-1,ROHTAK(HARYANA)

C.C.ROHTAK — Appellant

Vs

M/S SAI SALES CORPORATION. — Respondent

I am directed to transmit herewith a certified copy of **Final order No.** **C/134/ 2010 CU[DB]** dated 22.09.2010 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 SAI SALES CORPORATION., 217,VIKAS TOWER,
   PLOT NO 31,COMMUNITY CENTRE,
   PITAMPURA,DELHI -110034
2. Adv. / Consult MR. PREM RANJAN, ADV.,
   LGF-6/33, VIKRAM VIHAR,
   LAJPAT NAGAR-IV, NEW DELHI – 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. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9. M/s. Deeparchie Publications. M-93. Marg. 46. Saket. New Delhi 110017
10. Taxmann Allied Service Pvt Ltd.. 59/32. New Rohtak Road. New Delhi - 110005
11. Easy Service Tax Online Dot Com Pvt.Ltd.407A.Iscon Mall.Above Star India Bazar.Satellite Road.Ahmedabad-15
12. LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Haryana)
13. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file

Assistant Registrar
(Customs Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-III

Date of hearing/decision:22.9.2010

Customs Appeal No.585 of 2006

Arising out of the order in appeal Nos.273-274/NS/RTK/2006 dated 21.9.2006 passed by the Commissioner of Central Excise (Appeals), Delhi III.

For Approval and Signature:

Hon'ble Shri M.V. Ravindran, Judicial Member
Hon'ble Shri M. Veeraiyan, Technical Member

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 27 of 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

C.C.., Rohtak ... Appellant/applicant

Vs.

M/s Sai Sales Corporation ... Respondent

Appearance:

Shri I. Baig, Authorized Departmental Representative (SDR) for the Revenue
Shri P. Ranjan, Advocate for the respondents.

Coram: Hon'ble Shri M.V. Ravindran, Judicial Member
Hon'ble Shri M. Veeraiyan, Technical Member

Final Oral Order No. C/134/10

Per M.V. Ravindran:

This appeal is filed by the Department against the order of the Commissioner (Appeals) No. 273-274/NS/RTK/2006 dated 21.9.2006.

2. The relevant facts that arise for consideration are that the respondent-assessee imported HCH brand, ball bearing of Chinese origin and declared certain value. The adjudicating authority after investigation came to the conclusion that the value declared by the importer – respondent was incorrect and after granting personal hearing to the respondents enhanced the value based on NIDB data. Aggrieved with such enhancement of value, the respondents – assessee preferred an appeal to the Commissioner (Appeals). The Commissioner (Appeals) vide impugned order set aside the order of the original authority and allowed the appeal of the respondents – assessee with consequential relief. Revenue is aggrieved with this order.

3. Learned Departmental Representative, at the outset, submits that the impugned order passed by the Commissioner (Appeals) is in violation of the principles of natural justice. He would draw our attention to the first ground of appeal. He would submit that the Assistant Commissioner, Kundli Division vide letter dated 27.7.06 had sought personal hearing of the matter before the Commissioner (Appeals). It is his submission that they were not heard by the Commissioner (Appeals). He would also submit that the Commissioner (Appeals) did not consider the judgement which was in their favour.

4. On a specific query from the Bench, learned Advocate for the respondents – assessee submits that he has no serious objection for remand of the matter to the Commissioner (Appeals).

5. After hearing the submissions of both sides and on perusal of the records, we find that the Revenue's plea that they should be heard by the Commissioner (Appeals), is correct ~~on the~~ and there is violation of principles of natural justice. Since there is violation of principle of natural justice, the impugned order is unsustainable on that ground. Hence, without expressing any opinion on the merits of the case and keeping all the issues open , we set aside the

impugned order and remand the matter back to the Commissioner (Appeals) to decide the case after granting following ~~violation~~ principle of natural justice. As this matter is of 2006, subject to convenience of the Commissioner (Appeals), we direct the Commissioner (Appeals) to decide the matter within three months from the date of receipt of this order.

6. Appeal is allowed by way of remand.

(M.V. Ravindran)
Judicial Member

(M. Veeraiyan)
Technical Member

scd/