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

Date 20/10/2009

Appeal No. C/227 /2008 – SM[BR]

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
Respondent

M/S SANTAN SALES & SERVICES

I am directed to transmit herewith a certified copy of **Final order No**. 1285 / 2009 –SM[BR] dated 6.8.2009 passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
M/S SANTAN SALES & SERVICES
4B/52, 1ST FLOOR,OPP. RAJINDER NAGAR,SHANKER ROAD,NEW DELHI.
2. Adv. / Consult SHRI BIPIN GARG ADV.
B-1/1289-A, VASANT KUNJ NEW DELHI

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
(SM Appeal Branch)

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

Customs Appeal No.227 of 2008-SM (BR)

[Arising out of Order-in-Appeal No.172/CUS/APPL/LDH/2007 dated 26.12.2007 passed by the Commissioner of Customs & Central Excise (Appeal), Jalandhar]

Date of Hearing/ Decision:06.08.2009

For approval and signature:

Hon'ble Mr. P.K. Das, Member (Judicial)

1. Whether Press Reporters may be allowed to see CESTAT (Procedure) Rules, 1982.
2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? :
3. Whether Their Lordships wish to see the fair copy of the Order? :
4. Whether Order is to be circulated to the Departmental authorities? :

CC, Amritsar ...Appellants
(Rep. by Shri V.K. Saxena, Jt.CDR)

Vs.

M/s. Santan Sales & Services ....Respondents
(Rep. by Shri Atul Gupta, Company Secretary)

CORAM: **Hon'ble Mr. P.K. Das, Member (Judicial)**

Final Order No..1285/2009 SM (BR)........./Dated:06.08.2009

Per P.K. Das:

Revenue filed this appeal against the order of the Commissioner (Appeals), whereby redemption fine and penalties were reduced from

Rs.1,20,000/- to Rs.1,00,000/- and penalty from Rs.3,45,000/- to Rs.20,000/-.

2. Ld. Jt. CDR reiterates the grounds of appeal. He submits that the respondents imported the goods without licence, which is implied malafide on the part of the respondent. He submits that the Original Authority had imposed penalty and redemption fine after taking lenient view. So, the reduction in redemption fine and penalties by the Commissioner (Appeals) are not justified. He further submits that such reduction in the amount of redemption fine and penalty would encourage the offenders to violate the law.

3. Ld. Company Secretary on behalf of the respondent reiterates the findings of the Commissioner (Appeals). He submits that the respondents declared the goods as "Old and Used Compaq CRT Monitors 15" and 17". The Commissioner (Appeals) reduced the amount of redemption fine and penalty after considering the facts and circumstances of the case inasmuch as the respondent had not mis-declared the goods. Further, the respondents already incurred demurrage and other expenses amounting to Rs.2,82,000/- as recorded in the impugned order. After taking into account the value of the goods and detention charges and the amount of redemption fine and penalty, the value of the goods will be much more than the market price of the goods to Rs.12 Lakhs as determined by the Revenue. He also submits that as per the Policy, there is no requirement

of licence for importation of the monitors. He fairly submits that they are not contesting this issue as they have paid duty in order to avoid litigation. It is his submission that the respondents is already penalised and, therefore, the amount of redemption fine and penalty reduced by the Commissioner (Appeals) are justified.

4. After hearing both the sides, I find from the Adjudication Order that the respondent imported the goods for the first time. The ~~approving~~ appraising staff has calculated MOP as Rs.1,12,463.00. It is seen that the respondent incurred demurrage and other expenses of Rs.2,82,000/- and, therefore, the reduction of redemption fine from Rs.1,20,000/- to Rs.1,00,000.00 is justified. It is seen from the Commissioner (Appeals) order that the respondent had not misdeclared the description of the goods. It is a case of interpretation of provisions of Policy. The respondent paid duty of Rs.1,96,758.00 on loaded value. I find that the Commissioner (Appeals) reduced the amount of redemption fine and penalty after considering the materials available as per records. In view of that, there is no reason to interfere the order of the Commissioner (Appeals). Accordingly, the appeal filed by the Revenue is rejected.

Order dictated & pronounced in open court on 6.8.2009.

(P.K. Das)
Member (Judicial)

Ckp.