

AM : CEGCANAL

REGISTERED/A.D

THE CUSTOMS, EXCISE & GOLD (CONTROL) APPELLATE TRIBUNAL,

West Block No. 2, R.K. Puram, New Delhi - 110066.

BENCH-NB(SM)

Appeal No. A/259-280/01/NB(SM)

Dated : 16/2/201

CEGAT  
NEW DELHI  
To,

CC Kanpur

In the matter of :

CC Kanpur

Appellant

vs.

M/s Daulat Ram & Shri Shankar Lal

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/279/280/01/NB(SM)  
Dated : 5.7.2001 passed by the Tribunal under Section 35-C(1) of Central Excise  
& Salt Act, 1944/Section 129 (B) of the Customs, Act, 1962.

Copy to : Mr. Daulat Ram Joshi Navend Ram  
29/299, Karbathaji Hiran  
Kata Mahal, Agra (UP)

KV  
Asstt. Registrar  
NB(SM)

1(A) Sh. Shankar Lal Joshi Sandhu Lal  
31/15, Gulab Khan, Kata Mahal  
Agra (UP)

2. CE+CC (Appeal) Allahabad  
3. Chief Commissioner of Central Excise / Customs. Allahabad  
4. Adv. / Consult.

5. S.D.R-NB(SM)

6. JCDR

7. Bar Association, CEGAT, New Delhi

8. Library, CEGAT, New Delhi

9. Director (Review), C.B.E.C. North Block, New Delhi

10. Guard File.

11. M/s Deeparchic Publications, M-93, Marg-46, Saket, New Delhi.

12. M/s Centax Publications (P) Ltd., 1512-E, Bishm Pitamah Marg, opp. Sachdeva P.T. College of  
Defence Colony, New Delhi-110003

13. M/s Lex Site Com. Ltd., Mumbai

14. Office Copy

15. Can-com.

Asstt. Registrar NB(SM)

CUSTOMS, EXCISE & GOLD(CONTROL) APPELLATE TRIBUNAL,  
NEW DELHI.

C/APPEAL NOS. 259-260/00-NB(S)

(Arising out of Order-in-Appeal No. 1-2/CUS/KNP/2000 dated 6th April, 2000 passed by the Commissioner of Central Excise (Appeals), Allahabad).

C.C., Kanpur.

Appellant  
(Sh. H.R. Bheema Shankar, SDR)

vs

Sh. Daulat Ram &  
Shri Shankar Lal

Respondent  
(None)

FINAL ORDER NO. A/279-280/01/NB  
(Dated the 5th Feb., 2001) (S/m)

PER S.S. KANG :

Revenue filed these appeals against the order-in-appeal passed by the Commissioner (Appeals).

When the case was called, none appeared on behalf of the respondents, in spite of notice. Therefore, the appeals are being taken up in the absence of the respondents.

Brief facts of the case are that 20 blankets and stereo cassette recorder of foreign origin were intercepted at parcel office railway station, Agra. Both the respondents claimed the goods on the ground that the goods were validly imported into India by one Abdul Razak on transfer of residence. A show cause notice was issued to the respondents on the grounds that as per the conditions of transfer of residence, the goods imported under transfer of residence cannot be sold. The adjudicating authority confiscated the goods and imposed a penalty of Rs. 10,000/- on both the respondents. The respondents filed appeal and the Commissioner (Appeals), vide impugned order, held that the condition for non-transfer of the goods imported under T.R. was waived by Board's circular No. 63/95-CUS dated 7.6.95 and allowed the appeals.

Heard Id. S.D.R., who reiterates the grounds of appeal and perused the appeal papers.

The contention of the revenue is that the goods, in question, are not the same which are mentioned in the T.R. declaration. Therefore, the goods were illegally imported into India, hence liable for confiscation. are

The present proceedings/ initiated by issue of a show cause notice to the respondents on the ground that the goods, in question, were imported into India under Transfer of Residence Scheme and they cannot be sold to another person. The Commissioner (Appeals) in the impugned order held that this condition is waived by the Board. Now the claim of the revenue is that the goods are not the same, which were imported under Transfer of Residence Scheme. This ground was not the ground for confiscation in the show cause notice. Therefore, the revenue now wants to confiscate the goods under new grounds other than mentioned in the show cause notice, which is not permissible. In view of the above discussion, the appeals, filed by the revenue, are rejected. (Dictated in Court).

(S.S. KANG)  
MEMBER (JUDICIAL)

Dt. 05.02.2000  
vk