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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/478 /2009 - CU[DB]   Date 15/03/2011

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

To :
M/S. HARPRET SAMBI,
71, MAIN ROAD, DOMLUR,
2ND STAGE, BANGALORE.

M/S. HARPRET SAMBI, Appellant

Vs

C.C. NEW DELHI (IMPORT & GENERAL) Respondent

I am directed to transmit herewith a certified copy of **Final order No.C/116/ 2011 CU[DB]** dated

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
C.C. NEW DELHI (IMPORT & GENERAL)
NEW CUSTOM HOUSE, NEAR
I.G.I. AIRPORT, NEW DELHI
110037.

2. Adv. / Consult
MR.P.A.AUGUSTIAN,ADV
FAIZEL CHAMBERS,
PULLEPADY CROSS ROAD,
COCHIN-682018
3. C.D.R
4. Bar association. CESTAT. New Delhi
5. Director Publications. Customs. Excise. I.P. Estate. New
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. M/s. Deeparchie Publications. M-93. Marg. 46. Saket. New Delhi 110017
9. Taxmann Allied Service Pvt Ltd.. 59/32. New Rohtak Road. New Delhi -
10. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
11. LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Harvana)
12. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
13. Office Copy
14. Guard file

Assistant Registrar
(Customs Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
DIVISION BENCH

Customs Appeal No.C/478/2009

(Arising out of Order-in-Original No.29/2008 dated 12.11.2008 passed by the CC, New Delhi)

For approval and signature:

Hon'ble Mr. S.S.Kang, Vice President
Hon'ble Mr.M.Veeraiyan, Member (Technical)

1	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the 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?	

Harpret Sambi — Appellants

Vs.

CC, New Delhi — Respondent

Present for the Appellant: Shri P.A.Augustian, Advocate
Present for the Respondent: Shri K.K.Jaiswal, DR

Coram: Hon'ble Mr. S.S.Kang, Vice President
Hon'ble Mr.M.Veeraiyan, Member (Technical)

Date of Hearing/decision: 08.03.2011

Final **ORDER NO.** C/116/11

PER: S.S.KANG

The appellant filed this appeal against the order passed by the Commissioner of Customs whereby the value in respect of the car imported by the appellant was enhanced and the car was confiscated on the ground of misdeclaration of value and country of manufacture. An option to redeem the same on payment of redemption fine of Rs.4 lakhs has been given and penalty of Rs.2.50 lakhs was imposed under Section 112(a) of the Customs Act, 1962.

2. The facts brief of the case are that the appellant made import of car and declared the same in the bill of entry a brand new Lexus Hybrid, LS 600 HL Rt Hand drive car and the country of origin Japan was mentioned. The appellant declared the value of the car as GBP 47,100 CIF (Rs.40,24,506.60). The declared value of car was not accepted by the Revenue. As per website of the manufacturer at www.lexus.co.uk that the basic price of the car was mentioned as GBP 70451.60 which comes to GBP 85334.5 after adding freight, insurance and landing charges which is equivalent to Rs.61,,99,244/- and there was another import of car from the United Kingdom and value declared was higher than the value declared by the appellant. As per import policy, the car is to be imported from the country of manufacture and in the present case, the country of manufacture was Japan and the car imported from United Kingdom.

3. The contention of the appellant is that the car was manufactured in Belgium and from Belgium the car was shipped to U.K. The Appellant purchased the car in U.K. As the car manufactured in Belgium and imported into India, therefore it should not be treated as imported from the other country than the country of manufacture. In respect of the value, the contention of the appellant is that same model vehicle was imported under bill of entry No.150768 dt.8.7.08 declaring the value as declared by the appellant and the Customs authorities accepted the same. It is also submitted that there is no reason to reject the invoice value as there is no evidence on record that the appellant had paid any consideration over and above the transaction value. In the alternative,

the appellant pleaded that it is minor technical offence, therefore lenient view be taken. The contention of the appellant is that subsequent to the import of the car in December, 2008, the import policy amended to the effect where the condition that it shall be imported from the country of manufacturer was deleted.

4. The contention of the Revenue is that on records the country of manufacture is Japan as per certificate produced by the appellant. It is also on record that the car was originally manufactured in Japan and some enhancement was done in Belgium and thereafter the car was sold In U.K. from where the appellant purchased the car and paid the amount for consideration in British Ponds. Therefore, the car was purchased from U.K. and thereafter imported into India in violation of import policy as the same is not imported from country of manufacture. In respect of the value, the contention is that appellant relied upon bill of entry 150768 dt.8.7.08. The value declared in that bill of entry is not accepted by the customs authorities and demand of differential duty was made in respect of import relied upon by the appellant. The value is enhanced on the basis of another import of car of same model from U.K.

5. A brand new Lexus Hybrid, LS 600 HL Rt Hand drive car was purchased and imported from U.K. and the car was manufactured in Japan as per certificate produced by the appellant and some enhancement was done in Belgium before the car is sold in U.K. In the circumstances, we find no merits in the contention of the appellant that car was imported from the country of manufacture. As per the import policy, the car is to be imported from the country of manufacturer, hence there is no infirmity in the impugned order whereby it is held that there is violation of import policy. The value of the car was enhanced

taking into consideration the value declared by another importer in respect of same model car imported from U.K during the same time i.e. BE No.820845 dt.8.5.08. Therefore, we find no infirmity in the impugned order in this regard also.

6. We find that redemption fine and penalty is also reasonable in view of the mis-declaration in respect of value & country of origin and does not call for any reduction. The appeal is dismissed.

(Pronounced in the open court)

(S.S.KANG)
VICE PRESIDENT

(M.VEERAIYAN)
MEMEBR (TECHNICAL)

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