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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/198 & 200 /2007 - CU[DB] Date **17/01/2011**

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

To :
C.C. ICD, TUGHLAKABAD,
NEW DELHI 110020.

C.C. (ICD) NEW DELHI Appellant

Vs

MARUTI TRADING CO. Respondent

I am directed to transmit herewith a certified copy of **Final order C/2-3/ 2011 CU[DB]** dated 11.01.2011 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
MARUTI TRADING CO.
B-IX-959, SHANGLA SHIWALA
ROAD, OPPOSITE AGRAWAL
DHARAMSHALA, LUDHIANA,
PUNJAB.
2. Adv. / Consult
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 (Haryana)
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)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. IV

Customs Appeal No. 198 & 200 of 2007

[Arising out of Order-in-Appeal No. CC(A)/06-07/ICD/D-II/2007 dated 6.2.2007 and CC(A)/04/ICD/D-II/2007 dated 6.2.2007 both passed by the Commissioner of Customs (Appeals), Delhi II]

For approval and signature:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. M. Veeraiyan, Member (Technical)

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

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Commissioner of Central Excise. New Delhi — Appellants

Vs.

M/s. Maruti Trading Co. — Respondent

Appearance:

Shri K.K. Jaiswal, SDR for the Appellants
None for the Respondent

Date of Hearing/decision : 11.01.2011

Final **ORAL ORDER NO. C/2-3/11**

Per M. Veeraiyan:

These two appeals by the department are against the order of the Commissioner (Appeals) setting aside the orders of original authority on the bills of entry enhancing assessable value.

2. Heard the learned SDR. None appears for the respondents.

3. The respondents imported polyester coated fabrics with declared value of 0.15 US$/ Kg ~~of~~ and non-textured polyester lining with a declared value of 0.12 US$ /Kg. and the original authority loaded the value to 0.16 US$ per meter in respect of both categories of goods. It is claimed that the respondents agreed for the enhancement and taken the clearance. The respondents filed the appeal before the Commissioner (Appeals) and challenged the enhancement claiming that the department has not given any evidence showing the basis for loading the value and there was no mis-declaration of the goods. Commissioner (Appeals) has set aside the enhancement.

4. Learned SDR reiterates the grounds of appeal. He also relies on the decision of the Tribunal in CC, New Delhi vs. DM International reported in [2008 (227) ELT 335] and decision of the Tribunal in the case of Polyglass Acrylic Mfg. Co. vs. CCE, New Delhi vide Final Order No. 266-268/05-NB(A) dated 13.1.2005 where the matter was

remanded to the Commissioner (Appeals) and seeks remand of the matter for fresh consideration.

5. On perusal of the records including the grounds of appeal, we do not find any evidence that the enhancement has been made relying on any contemporaneous import prices. Further, it appears that the enhancement has been done without taking consent of the importer in writing as envisaged by the Board vide Circular No. 91/03-Cus. dated 14.10.03. In the grounds of appeal also, no mention has been made about the existence of any contemporaneous import price or any other evidence justifying enhancement of the value. Further, there is no reason given to reject the declared transaction value by the importers. Under these circumstances, we hold that no valid reasons have been adduced to interfere with the order of the Commissioner (Appeals).

6. The appeals by the department are, therefore, rejected.

(Archana Wadhwa)
Member(Judicial)

(M. Veeraiyan)
Member(Technical)

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