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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/353 /2007 - CU[DB] Date **21/01/2011**

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

To :
C.C.E. DELHI III

UDYOG MINAR, UDYOG VIHAR, VANIJYA NIKUNJ,
PHASE V, GURGAON - 122016 (HARYANA)

C.C.E. DELHI III Appellant

Vs

M/S Y.S. ENTERPRISES Respondent

I am directed to transmit herewith a certified copy of **Final order** C/34/ **2011 CU[DB]** dated 17.01.2011 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
M/S Y.S. ENTERPRISES
SHOP NO. 22, WZ-19A, SARATI COMPLEX,
JAWALAHERI MARKET, PASCHIM VIHAR,
NEW DELHI – 110063.

2. Adv. / Consult MR PREM RANJAN, ADV.
C/O. **M/S Y.S. ENTERPRISES**
SHOP NO. 22, WZ-19A, SARATI COMPLEX,
JAWALAHERI MARKET, PASCHIM VIHAR,

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 & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. IV

DATE OF HEARING : 12/01/2011.
DATE OF DECISION : 12/01/2011.

Customs Appeal No. 353 of 2007

[Arising out of the Order-in-Appeal No. 232-236/SSS/GGN/2007 dated 25/04/2007 passed by The Commissioner of Central Excise (Appeals), Delhi – III, Gurgaon.]

For Approval and signature :

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri 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?	:	No
2.	Whether it would be released under Rule 27 of the 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 Department Authorities?	:	Yes

CCE, Delhi – III, Gurgaon — Appellants

Versus

M/s Y.S. Enterprises — Respondent

Appearance

Shri K.K. Jaiswal, Authorized Representative (SDR) – for the Appellants.

Shri Prem Ranjan, Advocate – for the Respondent.

CORAM : **Hon'ble Ms. Archana Wadhwa, Member (Judicial)**
Hon'ble Shri M. Veeraiyan, Member (Technical)

Final Order No. C/34/11 Dated : 17.1.11

Per. Archana Wadhwa :-

Being aggrieved with the order passed by Commissioner (Appeals) the Revenue has filed the present appeal. Vide impugned order, the Appellate Authority has set aside the order of the lower authorities enhancing the price of the imported goods. He has observed that the assessing authority has not advanced ~~engaged~~ any reason for rejection of the transaction value or for enhancement of the same. Accordingly, he has held that transaction value has to be accepted.

2. Revenue in their memo of appeal has submitted that in as much as there was no request by the importer to the proper officer to intimate the ground for doubting the accuracy of the value declared in relation to the goods declared imported by them, the enhancement of the value by taking into consideration the contemporaneous import was justified. Learned DR has further submitted that in as much as the appellant accepted the loading of the value, there was no obligation on the part of the original Adjudicating Authority to pass a reasoned order.

3. We find no merit in the above contention. An identical issue was considered by us in the case of CCE, New Delhi vs. M/s Maruti Trading Co. in final order No. C/2-3/11 dated 11/1/2011. In para 5 of the said decision which is reproduced below :-

"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)."

4. By adopting the ratio of the above decision, we reject the appeal filed by the Revenue.

(Dictated and pronounced in open court.)

(Archana Wadhwa)
Member (Judicial)

(M. Veeraiyan)
Member (Technical)

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