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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/210 /2007 - CU[DB] Date **21/01/2011**

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

M/S C.J.INTERNATIONAL , Respondent

I am directed to transmit herewith a certified copy of **Final order** C/39/ **2011 CU[DB]** dated 20.01.2011 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 C.J.INTERNATIONAL ,
WZ-L-43, GALI NO. 16, KRISHNA
PARK EXTENTION, NEW
MAHABIR NAGAR, NEW DELHI.
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 & 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 : 19.1.2011

Custom Appeal No. 210 of 2007-Cus.

[Arising out of the Order-in-Appeal No. 02/CUS/APPL/LDH/2007 dated 15.1.2007 passed by The Commissioner (Appeals), Customs & Central Excise, Chandigarh]

For Approval and signature :

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
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?	:	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

CC, Amritsar
Appellant

Vs.

M/s C.J. International
Respondent

Appearance :

Appeared for Appellant : Shri Sonal Bajaj, SDR
Appeared for Respondent : None

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

Final Order No. C/39/11 dated 20.1.11

Per **Archana Wadhwa:**

Being aggrieved with that part of the impugned order passed by the Commissioner (Appeals) vide which he has reduced the redemption fine and penalty imposed upon ~~an~~ the importer, while upholding the value enhanced by the original adjudicating authority, the Revenue has filed the present appeal.

2. We have heard Shri Sonal Bajaj, ld. SDR and none appeared for the respondent.

3. For better appreciation of the reasons adopted by Commissioner (Appeals) for reducing the redemption fine and penalty, we reproduce the relevant part of the order:

> "However, it is observed that the value of goods had already been loaded for Rs.4 lacs approx. on the Bill of Entry without assigning any reason or any valid ground for doing so by the adjudicating authority while assessing the customs duty. Further, it is observed that there is no allegation against the appellants and they having malafide intention as the description of goods was found to be duly tallied with the description mentioned in the Bill of Entry. The appellants have placed reliance in case of **M/s Kapson Industries Vs. Commissioner of Customs,** Mumbai reported as 2005 (186) ELT 490 (Tri. Delhi) and some Orders-in-Appeals passed by the Commissioner (Appeals), Chandigarh wherein redemption fine and penalty have been substantially reduced. The appellants have cited Hon'ble Tribunal Final Order No. 1071/06-SM(BR) dated 3.7.06 in the case of M/s Supreme Enterprises, Delhi and No. 1590/06-SM(BR) dated 31.10.2006 wherein the Tribunal has upheld the Order-in-Appeal passed by the Commissioner (Appeals), Central Excise, Chandigarh wherein redemption fine and penalty were substantially reduced under the similar circumstances rejecting the appeal filed by the Revenue against the said Order-in-Appeal. Therefore, keeping in view the entire facts wherein the value has been loaded and the demurrage/detention charges incurred by the appellants and applying the direct ratio of above case laws especially in the case of M/s Supreme Enterprises, Delhi, it is held that redemption fine and penalty imposed in this case by the adjudicating authority is quite harsh and excessive and as such need to be suitably modified. Accordingly, redemption fine and penalty are reduced to Rs.60,000/- (Rupees

Sixty Thousand only) and Rs.10,000/- (Rupees Ten Thousand only).

4. As is seen from the above, the appellate authority has followed earlier decision of the Tribunal in the case of Supreme Enterprises rejected the appeal filed by the Revenue and has taken into consideration the fact of loading of value and demurrage and detention charges incurred by the respondent. As against the above, Revenue has not advanced any reasons to enhance the redemption fine or penalty. It only stands contended that the low fine and penalty shall encourage the importer to carry such restricted goods and defeat the basic purpose of bringing the amendment in the Foreign Trade Policy, requiring import against the licence.

5. We feel that such type of ~~and~~ general arguments cannot be made the basis for enhancing the redemption fine and penalty, as against specific reasons given by the Commissioner (Appeals). As such, we find no merits in the Revenue's appeal and reject the same.

(Pronounced in Court)

(ARCHANA WADHWA)
MEMBER (JUDICIAL)

(M. VEERAIYAN)
MEMBER (TECHNICAL)

RM