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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/74 /2007 - CU[DB] Date **24/02/2011**

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

To :
C.C. N DELHI
THE COMMISSIONER OF CUSTOM, NEW CUSTOM
HOUSE, NEAR IGI AIRPORT, N. DELHI.

C.C. N DELHI Appellant

Vs

M/S P.J.NETWORK Respondent

I am directed to transmit herewith a certified copy of **Final order C/89/ 2011 CU[DB]** dated 21.02.11

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 P.J.NETWORK
Q-13, RAJOURI GARDEN,
NEW DELHI.
2. Adv. / Consult SH. S. SUNIL, ADV.
46, BANK ENCLAVE,
DELHI – 92.
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.

COURT NO. IV

Date of Hearing : 17.2.2011

Custom Appeal No. 74 of 2007

[Arising out of the Order-in-Appeal No. CC(A)/34/ACU/NCT/D-I/2006 dated 31.10.2006 passed by The Commissioner of Customs, (Appeals),New Delhi]

For Approval and signature :

Hon'ble Mr. Ashok Jindal, Member (Judicial)
Hon'ble Mr. Mathew John, 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 would 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 Department Authorities?	:

CC, New Delhi — Appellant

Vs.

M/s P.J. Network — Respondent

Appearance :

Appeared for Appellant : Shri Amrish Jain, SDR
Appeared for Respondent : Shri S. Sunil, Advocate

Coram:
Hon'ble Mr. Ashok Jindal, Member (Judicial)
Hon'ble Mr. Mathew John, Member (Technical)

Final Order No. C/89/11 dated 21.2.11

Per Ashok Jindal:

Revenue has filed this appeal against the impugned order wherein the loading of enhanced value was set aside by the lower appellate authority.

2. The ld. DR submitted that the respondents have imported 49 pieces of WIC-IT and one piece of MN-IFE-TX and filed Bill of Entry. The same was assessed during the course of assessment and it was found that the valuation of the goods were not done properly as the valuation available on Internet are higher than shown in the Bill of Entry. Accordingly, the value of imported goods were enhanced on which the duty was paid by the respondent without any protest. Thereafter, respondent filed an appeal before the lower appellate authority who set aside the loading of value made in the adjudication order which is not proper as held by the **Vikas Spinners Vs. CC, Lucknow** reported in 2001 (128) ELT 143.

3. On the other hand, ld. Advocate of the respondent submits that the allegation against the respondent is that they have undervalued the imported goods. The adjudicating authority has arbitrarily enhanced the value of the goods without relying on ~~the~~ any evidence and without any basis, which were considered by the lower appellate authority in appeal and after considering the submissions made by the respondent, the lower appellate authority has rightly rejected the adjudication order.

4. Heard and considered.

5. We have considered the submissions made by both the sides and we find that while ~~adjudicating~~ assessing the Bill of Entry, the adjudicating authority has relied on the value of the goods available on Internet but they have not relied on any contemporaneous import of the said item and also failed to bring on record how they

have arrived on the enhanced value which is in violation of principles of natural justice. Moreover, the lower appellate authority has considered the submissions made by the respondent wherein they have produced the records of negotiations made with their foreign suppliers for the impugned goods and considering the submissions of the respondent, the lower appellate authority has set aside the adjudication order. The case law relied by the ld. DR in the case of **Vikas Spinners** (supra) is not relevant to the facts of the case, in fact in that case the issue of classification of goods was there which was admitted by the assessee during adjudication proceedings. But in this case issue is of valuation of goods wherein the value was enhanced without any evidence.

5. From the above discussion, we do not find any infirmity in the impugned order the same is upheld. The appeal filed by the Revenue is rejected.

(Pronounced in Court)

(Ashok Jindal)
Member (Judicial)

(Mathew John)
Member (Technical)

RM