TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
CUSTOMS APPEAL BRANCH

Appeal No. C/505 /2007 - CU[DB]   Date **20/07/2011**

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

To :
C.C.E. ROHTAK
SCO NO,6 SECTOR 1, ROHTAK.

C.C.E. ROHTAK   Appellant

Vs

M/S RAMESH IMPEX   Respondent

I am directed to transmit herewith a certified copy of **Final order No.**C/329/ **2011 CU[DB]** dated 12.07.2011 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 RAMESH IMPEX
SECTOR-I, PHASE-2,
SHARDAPURI, KANKAR KHERA,
MEERUT

2. Adv. / Consult

3. C.D.R
4. Bar association. CESTAT. New Delhi
5. Director Publications. Customs. Excise. I.P. Estate. New Delhi
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. Taxmann Allied Service Pvt Ltd., 59/32. New Rohtak Road. New Delhi - 110005
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file

Assistant Registrar
(Customs Appeal Branch)

CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI
COURT ROOM NO.III

Appeal No.Cus.Ap.505/2007

(Arising out of the Order-in-Appeal No.316/SSS/RTK/2007 dated 20.06.2007 passed by Commissioner of Central Excise(Appeals), Delhi-III.)

For approval and signature of:

SHRI S. S. KANG, HON'BLE VICE PRESIDENT
SHRI MATHEW JOHN, HON'BLE 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 ?	:	NO
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 ?	:	NO

Commissioner of Central Excise, Rohtak ...APPELLANT

VERSUS

M/s.Ramesh Impex ...RESPONDENT

APPEARANCE

Shri Sonal Bajaj, SDR FOR APPELLANTS

NONE FOR THE RESPONDENTS

CORAM:

SHRI S. S. KANG, HON'BLE VICE PRESIDENT
SHRI MATHEW JOHN, HON'BLE MEMBER (TECHNICAL)

DATE OF HEARING: 12.07.2011

Final **ORDER NO. C/329/11**

PER SHRI MATHEW JOHN,

1. When the matter was called none appeared for the Respondents. We also notice that on previous occasion also nobody appeared for Respondent and therefore it appears that the Respondent is not keen to defend the Appeal filed by the Revenue. The Appeal was taken up and studied with the help of the D.R..

2. The Respondent in this case imported a consignment of Sodium Hydrosulphite and filed bill of entry dated 02.03.2007 declaring the quantity as 34 M.T.. They declared the value of the goods as US $ 450 per M.T. the country of origin as Russia. The Revenue noticed that the country of origin as per bill of lading was Korea. For import of the said item from Korea there was anti-dumping duty payable as per Notification No.108/06 dated 16.10.2006. This anti-dumping duty was payable on the differential value of the consignment by taking price difference between $ 1063.11 per M.T. and the landed value of imported goods per M.T.. Thus anti-dumping duty comes down as landed value increases. When the discrepancies were noticed the importer wanted to file a revised declaration increasing the value as US $ 970 per M.T. so that the incidence of anti-dumping duty would come down. The Revenue objected to such amendment in value. In the adjudication order the value initially declared by the

importer at US $ 450 per M.T. was taken as the correct declaration and assessment was finalized.

3. On examination of the goods, the goods were actually seen to be of Chinese origin. For goods of Chinese origin also anti-dumping duty as per Notification No.108/06-Cus was applicable. Further on examination mis-declaration was noticed in respect of quantity as well. Therefore we notice that the importer did not make declarations in a bona fide manner at the time of filing of the bill of entry.

4. Mis-declarations involved were adjudicated by the Joint Commissioner by confiscating the goods and imposing redemption fine of Rs.2.5 Lakhs (Rupees Two Lakhs Fifty Thousand only). Further a penalty of Rs.2.5 Lakhs (Rupees Two Lakhs Fifty Thousand only) was imposed under Section 112(iii) of the Customs Act, 1962.

5. Aggrieved by the order the importer filed an Appeal with the Commissioner(Appeals). The Commissioner(Appeals) accepted the revised value of US $ 970 per M.T.. He also reduced the redemption fine from Rs.2,50,000/- to Rs.25,000/- and penalty from Rs.2,50,000/- to Rs.25,000/-. Aggrieved by this order the Revenue is before this Tribunal.

6. We find that the importer did not give bona fide declarations. He manipulated the declaration to reduce the duty incidence and in such circumstances we feel the importer has to be dealt with sternly and the redemption fine and penalty imposed by the Commissioner(Appeals) is not commensurate

with the offence committed. Therefore we hold that the value as originally assessed by the adjudication order should be maintained. Further we restore the Order-in-Original in matters of redemption fine and penalty.

7. Thus appeal filed by Revenue is allowed.

(Dictated & pronounced in the open Court.)

(S.S. KANG)
VICE PRESIDENT

(MATHEW JOHN)
MEMBER(TECHNICAL)

sm/-