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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/616A, 616B, 616C, 616D, 616E & 616F /2007 - CU[DB]　　Date **21/10/2011**

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

M/S POLYGLASS ACRYLIC MFG. CO. PVT. LTD.　　Respondent

I am directed to transmit herewith a certified copy of **Final order No.C/456-461/ 2011 CU[DB]** dated 03.10.2011 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 POLYGLASS ACRYLIC MFG. CO. PVT. LTD.
89-90, INDUSTRAL AREA, PHASE I,
PUNCHKULA, HARYANA.

2. Adv. / Consult MR. PREMRANJAN KUMAR, ADV.
C/O. M/S POLYGLASS ACRYLIC MFG. CO. PVT. LTD.,
89-90, INDUSTRAL AREA, PHASE I,
PUNCHKULA, HARYANA.

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)

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

Customs Appeal No. 616A, 616B, 616C, 616D, 616E and 616F of 2007

[Arising out of Order-in-Appeal No. CC(A) Cus/57 to 62/ICD/D-II/2007 dated 21.6.2007 passed by the Commissioner of Customs, New Delhi]

For approval and signature:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Rakesh Kumar, 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? : No
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? : Yes

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Commissioner of Customs
New Delhi — Appellants

Vs.

M/s. Polyglass Acrylic Mfg. Co.Pvt.Ltd. — Respondent

Appearance:

Shri R.K. Gupta, SDR for the Appellants
Shri Prem Ranjan, Advocate for the Respondent

CORAM:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Rakesh Kumar, Member (Technical)

Date of Hearing/decision : 21.09.2011

Final **ORAL ORDER NO. C/ 456-461/11**

Per Archana Wadhwa (for the Bench):

The present appeal stands filed by the revenue against the order of the Commissioner (Appeals), vide which he has set aside the enhancement of the value of the imported fabrics imported by the respondents. It is seen that the said appeals were filed before the Commissioner (Appeals) against the Bills of Entry vide which the value of imported flock fabrics was enhanced. No detailed order was passed by the original adjudicating authority and no reasons were advanced while enhancing the assessable value.

2. Commissioner (Appeals) in his impugned order has observed that there is no contemporaneous import justifying the enhancement of value. As such by referring to the Hon'ble Supreme Court decision in the case of Eicher Tractors vs. CCE [2000 (12) ELT 321 (SC)], he has set aside the enhancement. Hence, the present appeal by the revenue.

3. The main contention of the Revenue in their memo of appeal is that there was sufficient evidence in the shape of contemporaneous imports for the enhancement of the assessable value. Inasmuch as the original adjudicating authority enhanced the value only on bill of entry without passing a detailed speaking order, such an evidence could not be brought on record. Similarly, Commissioner (Appeals) has not adverted to such evidence inasmuch as the same were not part of the original orders.

4. After going through the memo of appeal and after hearing both sides, we find force in the above contention of the learned DR. As such, without commenting upon the merits of the case or the various contemporaneous imports relied upon, we set aside the impugned order and remand the matter to the original adjudicating authority for a fresh decision after taking into account the evidence brought on record by the Revenue. Needless to say that the same would be disclosed to the respondents-assessee seeking their defence on the same and A.C. afford reasonable opportunity of hearing to the respondents.

5. Revenue's appeal is disposed of in the above terms.

(Pronounced in the open court)

(Archana Wadhwa)
Member(Judicial)

(Rakesh Kumar)
Member(Technical)

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