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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/551-552 /2008 - CU[DB] Date **26/04/2012**

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

To :
C.C. (ICD) NEW DELHI
ICD, TUGHLAKABAD, NEW DELHI 110020.

C.C. (ICD) NEW DELHI Appellant

Vs

M/S VICTORY TRADING COMPANY, Respondent

I am directed to transmit herewith a certified copy of **Final order No.C/A/116-117/ 2012 CU[DB]** dated 19.04.2012 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 VICTORY TRADING COMPANY,
33/2, DLF INDUS. AREA,
NAJAFGARH ROAD,
MOTI NAGAR, DELHI.

2. Adv. / Consult MR. PREMRANJAN KUMAR,
C/O. **M/S VICTORY TRADING COMPANY,**
33/2, DLF INDUS. AREA, NAJAFGARH ROAD,
MOTI NAGAR, DELHI.

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-3
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 & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Court No.III

C/Appeal Nos.551-552/2008

(Arising out of order in appeal No.CCA/Cus/ICD/D.II/171/08 dated 30.4.2008 passed by the Commissioner of Central Excise (Appeals), New Delhi)

Date of Hearing: 19.4.2012

For Approval and signature:

Hon'ble Mrs. Archana Wadhwa, Member Judicial
Hon'ble Mr.Mathew John, Technical Member

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, New Delhi Appellants

Vs

M/s Victory Trading Co. Respondent

Appeared for the Appellant: Shri Amresh Jain, DR
Appeared for the Respondent: Shri Prem Ranjan Kumar, Advocate

Coram: **Hon'ble Ms. Archana Wadhwa, Member (Judicial)**
Hon'ble Mr. Mathew John, Member (Technical)

Final ORDER No. C/A/116-117/12- Cus.

Per Archana Wadhwa:

After hearing both the sides, we find that an order was passed by the original adjudicating authority enhancing the value of the imported goods. The said order was appealed against by the importer before the Commissioner (Appeals). It is also seen that the Revenue also filed an appeal against the said order of the Assistant Commissioner.

2. The Commissioner (Appeals) decided the importer's appeal vide his order dated 17.1.08, setting aside the enhancement. The said order of Commissioner (Appeals) was appealed against by the Revenue before the Tribunal who vide his Final order C/160-162/09 dated 29.4.09 observed that in as much as the Revenue's appeal was pending before the Commissioner (Appeals), he should have heard both the appellants together. Accordingly, Revenue's appeal against the order of Commissioner (Appeals) vide which he had granted relief to the respondent, was allowed by way of remand to Commissioner (Appeals) for decision on the importer's appeal as also on the departmental appeal together.

3. However, in the meanwhile, the Commissioner (Appeals) has disposed of the Revenue's appeal before him. He rejected the same by observing that as much as the importer's appeal also stands allowed by his order dated 17.1.08 nothing survives in Revenue's appeal.

4. At this stage, we note that the earlier order of Commissioner (Appeals) dated 11.1.08 also stands remanded to Commissioner (Appeals) with direction to decide the Revenue's appeal with the same.

Accordingly, we set aside the impugned order of Commissioner (Appeals) and remand the matter to him for fresh decision along with the earlier remanded matter.

5. Both the appeals of Revenue are disposed of in the above manner.

(Order dictated and pronounced in the open Court.)

(ARCHANA WADHWA)
Judicial Member

(MATHEW JOHN)
Technical Member

MPS*