14

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

REGISTERED / AD
Email : cestat08@gmail.com

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066

CUSTOMS APPEAL BRANCH

Appeal No. C/412 /2008 - CU[DB] Date **06/06/2012**

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

To :
M/S PARAMOUNT IMPEX PVT. LTD.

84 TH K.M. STONE, G.T. ROAD,
SEWAH, PANIPAT (PANIPAT)

M/S PARAMOUNT IMPEX PVT. LTD. Appellant

Vs

C.C.E. DELHI IV Respondent

I am directed to transmit herewith a certified copy of **Final order No.C/A/160/ 2012 CU[DB]** dated 24.05.2012 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
C.C.E. DELHI IV
NEW CGO COMPLEX, NH-IV,
FARIDABAD, HARYANA 121001.

2. Adv. / Consult
MR.JOY KUMAR
FLAT NO 261/1,SEC 45-A,
CHANDIGARH.

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.II

C /Appeal No. 412/2008

(Arising out of order in original No.1/Appl/CE/2008 dated 4.2.2008 passed by the Commissioner of Customs & Central Excise,Faridabad)

Date of Hearing: 24.5.2012

For Approval and signature:

Hon'ble Mr. D.N. Panda, 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?

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?

M/s Paramount Impex Pvt Ltd — Appellants

Vs

CCE, Faridabad — Respondent

Appeared for the Appellant: Shri Joy Kumar, C.A.
Appeared for the Respondent: Shri K.K. Jaiswal, SDR

Coram: **Hon'ble Mr D.N. Panda, Judicial Member**
Hon'ble Shri Mathew John, Technical Member

Final ORDER No. C/A/160/12-Cus

Per D.N. Panda:

The learned CA submits that when the appellant made a claim for drawback under Serial No. 630202 of the drawback schedule, Revenue intended to convert that to Sl No. 630207 for no good reason. The goods exported were Bed Linen, Table linen, kitchen linen of blend containing cotton and manmade fibre. The drawback schedule dealing with the Sl No. 630202 speaks of only the description of goods what the appellant exported and that entry does not speak the stage of blending. To remove the difficulty in understanding the description of goods for the claim of drawback, the appellant approached the Ministry of Finance and got clarification to the effect that Sl. No. 630202 of the drawback schedule of 2007-08 covers items made of fibre which is a blend of cotton and manmade fire (MMF) irrespective of stage of the blending whether at yarn stage or weaving stage. Therefore, claim of the appellant may be allowed.

2. Learned DR on the other hand supports the adjudication order submitting that the stage of blending makes the product different. Therefore, the adjudicating commissioner has rightly denied the claim of the appellant.

3. Heard both the sides and perused the record.

4. On perusal of paras 9 to 11 of adjudication order, there is no whisper about the difference between the goods falling under entries i.e. 630202 and 630207. But the department was of the view that the goods would fall under entry 630207 which deals with other category of goods blended with cotton and manmade fibre. Justification should have been brought out clearly to show how the goods exported were of 'other' type of goods. In absence of any enquiry done in that regard to bring the goods to other category, there is no scope to agree with learned DR.

5. We have taken help of Shri Asthana learned Counsel as Amicus Curiae to find out whether the interpretative rule of customs Tariff Act, 1985 shall be of any help to interpret the drawback schedule. He explained that the very purpose of both the schemes is different.

6. We are unable to find any support from the adjudication order to hold that the goods exported belong to other category as is envisaged by the Entry 630207 for no cogent reason or finding in the adjudication order.

7. Accordingly, the appeal is allowed.

(Order dictated and pronounced in the open Court.)

(MATHEW JOHN)
Member Technical
MPS*

(D.N. PANDA)
Member Judicial