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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/214/2012-CU[DB], C/S/1636/12, C/M/545/12

Dated: **26/06/2012**

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

ORION ENTERPRISES
C-7/1, MODEL TOWN, 3RD STOP,
DELHI-110009

Orion Enterprises (Appellant)

VS

C.C.-New Delhi(icd Itc) (Respondent)

I am directed to transmit herewith a certified copy of Final Order No. **C/A/175/2012-CU[DB]** dated **12/06/2012** and Stay/MISC Order No. **C/MO/125/2012** and **C/SO/181/2012** passed by the Tribunal under section **129-A(4) of the Customs Act, 1962.**

Assistant Registrar
CUSTOMS Appeal Branch

Copy To,

1. Respondent

C.C.-New Delhi(icd Itc)
INLAND CONTAINER
DEPORT...TUGLAKABAD...'ICD',
NEW DELHI,

2. Advocate(s) / Consultant(s):
ANIL KUMAR KHANNA,ADV
C-110(BASEMENT),SHIVALIK,
MALVIYA NAGAR, N 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 Publications 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. Gaurd File

Assistant Registrar
CUSTOMS Appeal Branch

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

Misc. No.545 of 2012
Stay Application No.1636 of 2012
Customs Appeal No.214 of 2012

[Arising out of Order-In-Appeal No.CC(A)/ICD/37/2011, dated 15.02.12 issued by CC, New Delhi]

For approval and signature:
Hon'ble Ms. Archana Wadhwa, Judicial Member
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?	Yes
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

M/s Orion Enterprises — Appellants
Vs.
CC, New Delhi — Respondent

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

Appearance:
Shri Anil Khanna, Advocate for the Appellants
Shri B.L.Soni, AR for the Respondent

Date of Hearing/decision : 12.06.2012

Final **ORDER NO .** C/A/175/12-Cus

Per Mathew John: Misc order No. C/M/125/12-Cus
Stay order No. C/S/181/12-Cus

The appellants have filed this appeal against the impugned order which confiscated a consignment of rice declared in shipping Bill filed for export to be "Basmati rice". The charge is that the goods did not conform to the standards for basmati rice prescribed in "Basmati Rice (Export) Grading & Marketing Rules, 1979", though the rice in question was conforming to the standards prescribed under Notification No.57/04-09, dtd. 05.11.08 issued by DGFT as amended on 17.08.10. The goods have been confiscated under section 113(d) and 113(i) of the Customs Act and appellant was given the option to redeem the goods on payment of redemption fine of Rs.8 lakhs. Further a penalty of Rs.3 lakhs has been imposed on the appellant u/s 114 of the Customs Act, 1962.

2. The counsel for the appellants submits that the criteria laid down in the Notification issued by DGFT to permit export of rice is that the length of the rice should be more than 7 mm and the length to breadth ratio should be more than 3.6 as per Notification dtd. 05.11.08. It is the submission of the ld. Counsel of the appellant is that as per Notification dtd. 05.11.08, the ~~erection~~ criterion of length was reduced to 6.6 mm. The rice tendered by them for export satisfied these conditions. He also submits that the goods have been lying in the port for almost 1 ½ year and now the goods cannot be exported without further processing. So they are requesting that goods may be allowed to be taken back to town.

3. Ld. Counsel pointed out that similar matter was considered in appeal No.504 of 2011 and the Tribunal had ordered vide Order No.C/A/136/12-Cus, dtd. 16.05.12 that such rice was not prohibited goods and confiscation is not maintainable and the appellant in that case was allowed to take back the goods, to town.

4. Ld. AR appearing for the Revenue is not making any plea to distinguish the facts of the case from the case already decided. Therefore, we allow the appeal by setting aside the impugned order both in respect of confiscation and penalty and allow the

appellants to take back the goods to town. Misc. Application for early hearing and the appeal are disposed of accordingly.

(Pronounced in the open Court)

(Archana Wadhwa)
Member(Judicial)

(Mathew John)
Member(Technical)

RK-I