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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/267 /2011 - CU[DB] Date 10/02/2012
C/S/1566/2011

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 CARREFOUR WC & C INDIA PVT. LTD., Respondent

I am directed to transmit herewith a certified copy of **Final order No.**C/A/44/ 2012 CU[DB] dated 06.02.12 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Alongwith Stay Order No C/S/35/12

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
M/S CARREFOUR WC & C INDIA PVT. LTD.,
16TH FLOOR, BUILDING 9A,
CYBER CITY, GURGAON
(HARYANA)

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-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,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066

COURT NO. II

C/Stay No. 1566/2011 in and Customs appeal No. 267 of 2011

[Arising out of Order-in-Appeal No. CC(A)/ICD/17/2010 dated 27.1.2011 passed by the Commissioner of Customs (Appeals), New Delhi].

Date of Hearing/decision: 6th February, 2012

For approval and signature:

Hon'ble Mr. D.N. Panda, Judicial Member;
Hon'ble Mr. Rakesh Kumar, 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 should 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 Departmental authorities?	

C.C., ICD, TKD, New Delhi — Appellant

Vs.

M/s. Carrefour WC & C India P. Ltd., — Respondent

Present for the Appellant : Shri R.K. Gupta, D.R.
Present for the Respondent : None

Coram: Hon'ble Shri D.N. Panda, Judicial Member;
Hon'ble Shri Rakesh Kumar,Technical Member

FINAL ORDER NO. C/A/44/12-Cus.

Stay order No. C/S/35/12-Cus

Per D.N. Panda:

Learned representative for Revenue says that in terms of ground No. 6 & 8 when there was failure on the part of the appellate authority to examine the contemporaneous evidence the first appellate authority's order shall sustain. None appeared for the respondent.

2. Learned Commissioner (Appeals) has categorically recorded the issue before him in the order as to whether transaction value declared by the appellant was liable to be rejected or not. He examined the documents before him. We notice that the adjudicating authority simply rejected the declared value without assigning any reason. ~~So also he~~ Cm(A) says that once there is no contemporaneous evidence on record it was not possible to enhance He has recorded 8v at para 8 at page 3 of first appellate order.

3. We appreciate finding of the learned first appellate authority who noticed no evidence on record to discard the declared value. Today also there is nothing on record from para 6 & 8 of the grounds of appeal of Revenue to appreciate that there was any evidence. Consequently, both stay application and appeal are dismissed.

(Dictated and pronounced in the open Court)

(D.N. PANDA)
MEMBER (JUDICIAL)

(RAKESH KUMAR)
MEMBER (TECHNICAL)

RK