CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 10.04.2017

**Customs Appeal Nos. 59286 to 59288 of 2013**

(Arising out of order-in-appeal Nos. 215, 216 & 217/2013 dated 29.04.2013 passed by the Commissioner of Customs (Appeals), New Delhi)

CC (I&G), New Delhi — Appellant-Revenue

Vs.

Gurvinder Singh — Respondent – assessee

M/s Air Cargo Services

M/s Janta Arms Stores

Appearance:

Sh. R. K. Manjhi, AR for the assessee
Dr. Prabhat Kumar, Advocate for the assessee

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Final Order No. 52886 – 52888/2017

Per: **Justice (Dr.) Satish Chandra**:

The present appeals have been filed against the order-in-appeal Nos. 215, 216 & 217/2013 dated 29.04.2013 passed by the Commissioner of Customs (Appeals), New Delhi.

2. These three appeals are filed by Customs House Agent, its Partners and M/s Janta Arms Stores. The dispute in the present appeals is with reference to certain gun cartridges imported by M/s Modern Arms Limited. These imported cartridges were subsequently sold by the importers to various persons, a part of which was recovered and seized from them. The department opined that the goods imported were not covered by the import licence produced by the importer. Hence, these were considered prohibited goods and hence, the seized carridges were confiscated by the adjudicating authority. Penalty was also levied on the CHAs and various buyers. However, in appeal the Commissioner (Appeals) has followed his own decision in the case of M/s Nanda Shastralaya, Lucknow and granted the relief to the appellants. Being aggrieved, the department has filed the present appeals.

3. With this background, we heard Sh. R. K. Manjhi, ld. AR for the Revenue and Dr. Prabhat Kumar, ld. Advocate for the assessee.

4. After hearing both sides and on perusal of record, it appears that in the case of M/s Nanda Shastralaya, Revenue had filed A**ppeal Nos. C/ 3513 to 3521 of 2012** & **Appeal Nos. C/56376 to 56403 of 2013** which was decided by this Tribunal vide final order Nos. 52798 – 52834/ 2017 dated 10.04.2017 in which the Tribunal considered the issue in detail and finally remanded the matter to the adjudicating authority. The impugned order was set-aside. The adjudicating authority was directed to get samples of the imported cartridges examined and get expert opinion after having it to decide the matter denovo.

5. In the instant case, the Commissioner (Appeals) has granted relief on the basis of order passed in the case of M/s Nanda Shastralaya. But the said

order was set-aside by the Tribunal and remanded to the adjudicating authority.

6. By following our earlier order (supra), we set-aside the impugned order and remand the matter to the adjudicating authority to decide the issue denovo with the same direction (supra).

7. In the result, appeals filed by the department is allowed by way of remand.

(Dictated and pronounced in the open Court).

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| (V. Padmanabhan)<br>Member (Technical) | (Justice (Dr.) Satish Chandra)<br>President |

**Pant**