

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
EAST REGIONAL BENCH : KOLKATA**

SP-75653-75655/17 & 75687/17
& Cus.Appeal Nos.76285-76287/17 & 76328/17

(Arising out of Order-in-Appeal Nos.Kol/Cus/Port/AA/305-307/17 dated 06.04.2017 & Kol/Cus/Port/AA/266-271/17 dated 31.03.2017 passed by the Commissioner of Customs (Appeals), Kolkata)

Commr. of Customs (Port), Kolkata

Applicant (s)/Appellant (s)

Vs.

M/s Shiv International
M/s Asha Enterprises

Respondent (s)

Appearance:

S/Shri S.Guha & S.K.Naskar, both Asstt.Commr. (A.R.) for the Revenue(s)
None for the Respondent (s)

CORAM:

HON'BLE SHRI JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE SHRI V. PADMANABHAN, TECHNICAL MEMBER

Date of Hearing : 01.05.2018

Date of Decision : 01.05.2018

ORDER NO - FO/C/A/75899-75902/2018 & SO/ 75580-75583/2018

Per Dr. Satish Chandra.

The present appeals have been filed by the Revenue against the Orders-in-Appeal Nos.Kol/Cus/Port/AA/305-307/17 dated 06.04.2017 & Kol/Cus/Port/AA/266-271/17 dated 31.03.2017 both passed by the Commissioner of Customs (Appeals), Kolkata.

2. Brief facts of the case are that the appellants imported old and used worn clothing, completely fumigated, which were assessed after value enhancement, confiscation, redemption fine. The goods were confiscated. The respondents had accepted the value of the enhancement determined by the Department and gave up his right to clear their consignment quickly to avoid demurrage charges. In the

instant case, the Commissioner (Appeals) has accepted the enhanced value and confirmed the same by reducing penalty and redemption fine. Being aggrieved, the Department has filed these appeals.

3. With this background, we have heard Shri S.Guha & S.K.Naskar, Id.A.R. for the Revenue. None appeared on behalf of the respondents.

4. After hearing both sides and on perusal of record, it appears that the Commissioner (Appeals) has imposed penalty and redemption fine by following the decisions of the Tribunal as mentioned in the impugned order. The Adjudicating Authority has also relied upon the various decisions of the Hon'ble High Court of Bombay and the Tribunal. Redemption fine is rightly reduced. The respondents have accepted the enhanced value and gave up his right as penalty is under dispute, which has been reduced by the Commissioner (Appeals) after proper discretion. Under the peculiar facts and circumstances of the cases, the same appears reasonable.

5. In view of the above, we sustain the impugned order along with the reasons mentioned therein.

6. In the result, all the appeals filed by the Department are dismissed. Stay petitions also get disposed of.

(Dictated and pronounced in the open court.)

Sd/
(V.Padmanabhan)
Member (Technical)
mm

Sd/
(Justice Dr. Satish Chandra)
President