

## CESTAT RULING

<a href="#">2009-TIOL-1817-CESTAT-MUM</a>
<b>Trend Setters Vs CC, Mumbai (Dated : October 6, 2009)</b>
<p>Mis-declaration in Shipping Bill to secure undue DEPB credit – Malfeasance cannot go unpunished – since no finding given that the goods were prohibited or dutiable, section 113(h)/113(i) of Customs Act mis-applied – Confiscation not sustainable – Redemption fine set aside - Exporter liable to be mulcted with penalty u/s 117 of Customs Act – CESTAT.</p>
<a href="#">Also see analysis of the Order</a>
<a href="#">2009-TIOL-1816-CESTAT-MAD</a>
<b>ITC Ltd Vs CC, Tuticorin (Dated : September 7, 2009)</b>
<p>Customs – confiscation – unsorted paper waste along with quantities of unsorted scrap with leaching and foul smell – goods have rightly been held liable for confiscation under Customs Act/FTP/Hazardous waste Rules – Sections 111(d) and Section 112 of the Customs Act, 1962 - Penalty reduced.</p>
<a href="#">2009-TIOL-1812-CESTAT-KOL</a>
<b>M/s Inland Road Transport (P) Ltd Vs CC (PREV), West Bengal (Dated: August 11, 2009)</b>
<p>Customs – Transporter cannot absolve himself when ownership of seized consignments is unclaimed and fictitious – Pre-deposit of Rs. 25,000/- ordered</p>
<a href="#">2009-TIOL-1807-CESTAT-DEL</a>
<b>Shri Rakesh Arora Vs CC, New Delhi (Dated: July 14, 2009)</b>
<p><b>Customs - Import - Mis-declaration - Concealment of goods - Evidence - Penalty</b> - Revenue has proved that there was concealment of bearings, shoes etc., by a small quantity of synthetic rubber which was the goods stated to have been imported through Bill of Entry. It has also been established that the appellant is the person behind the said import and was real owner of the concern that imported the goods. Entire material having been brought to record and nothing been controverted to dissociate the appellant from M/s A.U. International. Appellant is not entitled to any immunity under the law. Penalty imposed sustained. (Para 5, 6)</p>

[2009-TIOL-1806-CESTAT-MAD](#)

**M/s Vikram Traders Vs CC, Tuticorin (Dated: August 17, 2009)**

Customs – misdeclaration – import of corduroy fabrics by declaring as Grey cotton fabrics which were actually allowed to be imported under DFRC licence – Grey cotton fabrics are different from cotton corduroy fabrics – denial of exemption under Notification 90/2004-Cus, demand of duty, confiscation and penalties upheld.

[2009-TIOL-1801-CESTAT-DEL](#)

**M/Siddharth Polymer Ltd Vs CC, New Delhi (Dated: July 2, 2009)**

Customs – Allegation of mis-declaration and undervaluation of imported polycarbonate sheets used in signage/advertising – Member (Technical) allows appeal on the ground that revenues evidences are inadequate to substantiate mis-declaration and undervaluation –

Member (Judicial) disagrees with Member (Technical) and remands matter to adjudicating authority to draw samples of virgin materials or of brands originating from supplier's country for test to resolve the dispute

Difference of opinion between two Members – Matter referred to President for resolution of difference of opinion

[Also see analysis of the Order](#)

[2009-TIOL-1800-CESTAT-AHM](#)

**M/s Saurashtra Cement Ltd Vs CC, Jamnagar (Dated: July 2, 2009)**

Customs – Diversion of goods imported under conditional exemption notification – Filing of Bill of Entry and finalizing assessment are not essential factors to be looked for considering whether goods are liable for confiscation or not – Huge volume of transaction cannot happen without knowledge of MD of importer-company – Imposition of penalty justified but reduced to Rs. 5 lakhs since equal penalty already imposed on importer-company – Buyer not aware of status of imported goods since high sea sale agreement was cancelled and amount paid for imported goods also included duty element, penalty on buyers set aside

[2009-TIOL-1799-CESTAT-MUM](#)

**CC, Mumbai Vs M/s Umax Enterprises (Dated: August 24, 2009)**

Customs - Refund claim of redemption fine and penalty – Whether hit by bar of unjust enrichment - Bombay High Court decision in United Spirits Ltd. Vs CC(Import) Mumbai - [2009-TIOL-316-HC-MUM-CUS](#) holding that principle of unjust enrichment not applicable to refund of redemption fine and penalty squarely applicable – Appeal rejected.

[2009-TIOL-1787-CESTAT-DEL](#)

**Shri Sandeep Sehgal Vs CC, New Delhi (Dated: June 4, 2009)**

Customs – Import of computer parts through speed post parcels and cleared clandestinely without payment of duty in collusion with postal assistants and inspector of customs – Elaborate evidences to confirm modus operandi of clandestine removal of contraband goods – Confiscation of goods and penalties on abettors confirmed – Penalty on NRI set aside

[2009-TIOL-1786-CESTAT-MUM](#)

**Maharashtra Medical Foundation Vs CC, Mumbai (Dated: August 31, 2009)**

Adjudicating Authority exceeding the limit set out in Tribunal's remand order and rejecting the claim by holding that it would defeat the objective of another notification - Appeal allowed by remand with direction to the Adjudicating Authority to consider on merit the claim for concessional rate of duty under notification no.65/88-Cus but without relying on the notification no.64/88-Cus.

Rejection of claim for concessional rate of duty under notification no.65/88-Cus in denovo proceedings resulting from the earlier proceedings before Tribunal wherein the claim of the appellant under notification no.64/88-Cus was rejected with remand of the case directing the adjudicating authority to consider the assessee's claim under notification no.65/88-Cus and to grant the same if found admissible.

[2009-TIOL-1782-CESTAT-MUM](#)

**M/s Cosmo Films Ltd Vs CC, Mumbai (Dated: September 17, 2009)**

Import by baggage - Goods freely importable and there is no requirement of an import licence – so goods cannot be confiscated and fine and penalty in lieu of import licence cannot be imposed – Order set aside and appeal allowed with consequential relief.

[2009-TIOL-1781-CESTAT-AHM](#)

**M/s VAZ Forwarding Ltd Vs CC, Kandla (Dated: July 27, 2009)**

Customs - No direct evidence on record to show that CHAs were aware of advance licences being bogus and forged – No justifiable reason to impose penalties – Impugned order set aside

[2009-TIOL-1772-CESTAT-MAD](#)

**M/s P P Products Pvt Ltd Vs CC, Chennai (Dated: July 6, 2009)**

Customs – Refund – Refund of bond interest on warehoused goods is not hit by bar of unjust enrichment.

[2009-TIOL-1771-CESTAT-MUM](#)

**Jhunjhunwala Vanaspati Ltd Vs CC, Mumbai (Dated: July 7, 2009)**

Clearance of Import of hydrogenated vegetable oil not conforming to PFA standards allowed by High Court on payment of appropriate duty, redemption fine and penalty - no pronouncement on any issue relating to quantum of fine and penalty – R.F imposed of Rs.2.5 lakhs and penalty of Rs. 1 lakh is reasonable – Appeals dismissed.

[2009-TIOL-1763-CESTAT-MAD](#)

**M/s Sundaram Dynacast Pvt Ltd Vs CC, Chennai (Dated: July 6, 2009)**

Customs - valuation – payment of technical licence fee and Royalty is not a condition for the sale of goods imported – not includable in the value.

[2009-TIOL-1762-CESTAT-BANG](#)

**CC, Cochin Vs M/s Swadeshi Imports & Exports (Dated: May 25, 2009)**

Customs – Import of polished marble slabs contrary to provisions of FTP – Impugned order reducing fine and penalties upheld as revenue has not appealed against previous order of appellate commissioner which was followed in the impugned order

[2009-TIOL-1760-CESTAT-MAD](#)

**Selvakumaran Offset Printers Vs CC, Trichy (Dated: July 15, 2009)**

Customs – second hand printing machinery imported without licence – confiscation, fine and penalty under Section 125 – option to redeem the goods should have been given to the purchaser of the good, not to the importer – But importer is still liable to penalty.

[2009-TIOL-1753-CESTAT-AHM](#)

**M/s Adani Exports Limited Vs CC, Jamnagar (Dated: August 31, 2009)**

Variation in Ash Contents would depend upon the method used and most importantly the drawing of sample – samples not drawn as per IS: 436 and report of the Chemical Examiner/CFRI does not state that the testing was done as prescribed in IS: 1350 - Load Port certificate, certifying that samples were analyzed in accordance with ASTM method to be given credence – Benefit of Notification 11/97-Cus extended – CESTAT

Drawing of samples according to the ISI method was very essential and in the absence of establishment that these procedures are followed the report of the laboratory cannot be accepted.

[Also see analysis of the Order](#)

[2009-TIOL-1752-CESTAT-BANG](#)

**M/s Tirupati Fin Trade Vs CC, Cochin (Dated: March 18, 2009)**

Customs – Redemption fine and penalty on import of second hand photo copiers reduced to 10% and 5% respectively – Impugned orders modified accordingly

[2009-TIOL-1751-CESTAT-BANG](#)

**M/s Vamsadhara Paper Mills Ltd Vs CC, Visakhapatnam (Dated: June 23, 2009)**

Customs – Non-production of end use certificate for imported goods destroyed in fire accident at factory – Since fire accident is beyond control of assessee duty demand not sustainable – Impugned order set aside

[2009-TIOL-1746-CESTAT-MUM](#)

**M/s Manufacturing Ltd Vs CCE, Pune-I (Dated: June 9, 2009)**

Order passed in Stay application by the CESTAT on an earlier occasion cannot be considered binding in nature as it does not lay down any law – CESTAT orders pre-deposit of entire duty

Tribunal's further observations -

Mere arguments that the definition of capital goods had undergone remarkable changes are of no help unless the appellants are able to point out what are the changes in the meaning of capital goods, in comparison to the use of the said expression in Notification no. 123/81 dated 02.06.1981 and in what way it differs with the meaning assigned to the said terms during the period in dispute.

Prima facie no case having been made out by the appellants for the purpose of grant of total waiver in relation to the duty demand, pre-deposit ordered of duty.

Since there exists arguable point, pre-deposit of penalty waived.

[Also see analysis of the Order](#)

[2009-TIOL-1745-CESTAT-MAD](#)

**M/s Schlumberger Asia Services Ltd Vs CC, Chennai (Dated: June 2, 2009)**

Customs – valuation – demand of differential duty based on the allegation that the imported had suppressed the actual value - the appellants had declared in the invoice enclosed with the Bill of Entry that the goods under import did not involve remittance of foreign exchange, the price declared was for customs purpose and that the goods would be re-exported. There is sufficient disclosure of the fact that the import did not involve sale of the impugned goods and that the transaction was not of commercial nature between unrelated buyers – there was no mis-declaration or suppression of facts with intent to evade payment of duty - demand by invoking extended period is not sustainable.

[2009-TIOL-1744-CESTAT-MAD](#)

**CC, Chennai Vs M/s Punj Lloyd Limited (Dated: July 10, 2009)**

Customs – exemption under Notification 21/2002 Cus. dt. 1/3/02 – the sub-contractor who availed the exemption has been specified in the agreement between *NHAI and NKEL* – exemption was rightly allowed by Commissioner (Appeals).

[2009-TIOL-1731-CESTAT-MUM](#)

**Ganapati Warehousing Ltd Vs CC, Mumbai (Dated: September 17, 2009)**

In view of the fact that appeals relating to year 2002-2003 are coming up for final hearing now, CHA's application for early hearing allowed

[Also see analysis of the Order](#)

[2009-TIOL-1730-CESTAT-KOL](#)

**M/s Jenson & Nicholson (I) Ltd Vs CC, Kolkata (Dated: May 28, 2009)**

Customs – Clearance of warehoused goods liable to duty as on the date of deemed clearance in the absence of extension of warehousing period by Commissioner or Chief Commissioner within the stipulated time after expiry of warehousing period – Commissioner cannot grant extension beyond six months – No reason to interfere with order of Commissioner (Appeals)

[2009-TIOL-1729-CESTAT-MUM](#)

**CC, Mumbai Vs Oil & Natural Gas Corpn Ltd (Dated: August 24, 2009)**

Appeal involving public limited company - clearance from the Committee of Disputes not sought for reason of smallness of amount - Clearance from COD is must for prosecution of case in terms of law laid down by the Supreme Court in ONGC Ltd. Vs CCE – [2002-TIOL-196-SC-CX](#) - Appeal dismissed for want of clearance from the Committee of Disputes.

[2009-TIOL-1719-CESTAT-MAD](#)

**M/s ETA General Pvt Ltd Vs CC, Chennai (Dated: August 3, 2009)**

Customs – Valuation – amount paid for technical documentation and drawings – the payment by assessee cannot be said to be in relation to the imported goods, but only in relation to the final products manufactured in India – not includible in the value – Rule 9(1)(c) of the Customs valuation Rules.

[2009-TIOL-1718-CESTAT-DEL](#)

**Shri Mukesh Rathore Vs CC, Tughlakabad (Dated: July 16, 2009)**

**Customs - Export - Fraudulent claim of drawback - Penalty** - Revenue has established the involvement of all the three appellants in the export of over-valued

used-garments to claim fraudulent drawback. The exported goods were not cleared at Dubai and were lying unclaimed. No evidence has been lead by any of the appellants to prove that they were not intimately and willfully connected with each other to perpetuate fraudulent activity of dubious export of readymade garments making over-valuation. Evil design of all the three appellants made the Revenue to suffer. Penalty imposed sustained. (Para 8)

[2009-TIOL-1717-CESTAT-MUM](#)

**Air Trade International Vs CC, Mumbai (Dated: August 5, 2009)**

Customs – Cross examination of foreign Nationals - Natural justice cannot be denied to the parties on the ground of procedural difficulties inasmuch as the procedure is only a handmaid of justice – case remanded for allowing cross examination and providing records: the learned Commissioner ought to have supplied the documents to the parties for the ends of justice, regardless of the fact that some of these documents might have already been given to them. The parties also wanted to cross-examine the foreigners, whose statements were also relied upon in the show cause notices, but this opportunity was also denied. The learned counsel submits today that the appellants would meet the expenses of these witnesses if allowed to be cross-examined. The learned SDR points out procedural difficulties in summoning these witnesses, but procedural difficulties can be overcome to the extent possible. Natural justice cannot be denied to the parties on the ground of procedural difficulties inasmuch as the procedure is only a handmaid of justice.

[Also see analysis of the Order](#)

[2009-TIOL-1716-CESTAT-MUM](#)

**M/s Surya Pharmaceutical Ltd Vs CC & CCE (Dated:September 7, 2009)**

Notification no.51/2000-Cus did not prohibit exemption to the goods of Indian origin and benefit of notification available - Policy circular is not applicable to the import made prior to issue of circular and further the same cannot take away the effect given under notification as the same being non-existent in law in view of Supreme Court decision in CCE Bolpur Vs Ratan Melting and Wire Industries – [ [2008-TIOL-194-SC-CX-CB](#) ] - Waiver of pre-deposit granted and Stay ordered pending disposal of appeal.

[2009-TIOL-1715-CESTAT-KOL](#)

**Sri Arun Kumar Vs CC & CCE, Patna (Dated: August 4, 2009)**

Customs – Allegation of gold smuggling – No findings given by Appellate Commissioner on issues raised by appellant regarding ownership of goods and other legal issues – Matter remanded for *de novo* consideration of all issues and issue a speaking order – Impugned order set aside



<a href="#">2009-TIOL-1708-CESTAT-MAD</a>
<b>M/s Reflex Refrigerants Ltd Vs CC, Chennai (Dated: July 22, 2009)</b>
Customs – Stay/dispensation of pre -deposit – valuation – enhancement of value by the Commissioner – there is no lacuna in the value adopted by the Commissioner and he is justified in applying the residual method of valuation in adopting the value of comparable goods contemporaneously imported at other ports – pre deposit ordered.
<a href="#">2009-TIOL-1704-CESTAT-KOL</a>
<b>M/s Sunita Impex Vs CC, Kolkata (Dated: August 4, 2009)</b>
Customs – Claim of drawback of excise duty on export of knitted fabrics – No concrete evidence to suggest inputs sent to job worker were duty paid – Prima facie not a strong case for assesseees for full waiver of pre -deposit – Considering claim of financial hardship appellants directed to pre -deposit 50% amount
<a href="#">2009-TIOL-1699-CESTAT-MUM</a>
<b>CC, Nhava Sheva Vs M/s Global Exim (Dated: September 9, 2009)</b>
Treating intra -departmental correspondence as appealable order – CESTAT deprecates this practice as illegal and un -judicial and sets aside order of Commissioner (Appeals).
<a href="#">Also see analysis of the Order</a>
<a href="#">2009-TIOL-1698-CESTAT-MAD</a>
<b>M/s Sun Direct Tv Pvt Ltd Vs CC (Sea), Chennai (Dated: July 2, 2009)</b>
Customs – Valuation – Set top boxes supplied free of cost to the subscribers – as there is no transfer of the ownership, the same are not covered under Section 4A for valuation of CVD payable.
<a href="#">2009-TIOL-1697-CESTAT-MAD</a>
<b>Annapurna Earcanal Pvt Ltd Vs CC, Chennai (Dated: August 5, 2009)</b>

Customs – Valuation – the payments of royalty and technical know-how fee are not includible in the declared price of the goods imported - the payment by the assesseees cannot be said to be in relation to the imported goods but only in relation to the final products to be manufactured.

[2009-TIOL-1684-CESTAT-BANG](#)

**M/s Aurobindo Pharma Ltd Vs CCE, Hyderabad (Dated: May 29, 2009)**

Customs – Return of goods procured against CT3 by 100% EOU when found effective governed by provisions of Para 6.17 (c) and not Para 6.15 of FTP HBP Vol I – Revenue has applied wrong provision for demand of duty – Prima facie case for full waiver of pre-deposit

[2009-TIOL-1675-CESTAT-AHM](#)

**M/s Gujarat Ambuja Exports Vs CC, Kandla (Dated: June 9, 2009)**

Customs – Classification of imported palm oil and two different classifications proposed by department – As per HSN palm oil produced by mechanical extraction shall be as 'crude' provided it has undergone no change in colour, odour or taste when compared with oil obtained by pressure – Once a product is held as crude palm oil irrespective of sub-headings, the product would be assessed on the basis of tariff value – Imported crude palm oil classifiable under Chapter 1511 10 00

[2009-TIOL-1666-CESTAT-MAD](#)

**PPN Power Generating Company Vs CC, Chennai (Dated: May 29, 2009)**

Customs – rejection of refund claim in spite of the order from the Tribunal – revenue is bound to follow an order of the appellate authority unless operation thereof is suspended by a competent court – lower authorities directed to implement the order and sanction refund.

[2009-TIOL-1665-CESTAT-MAD](#)

**M/s K G Denim Ltd Vs CCE, Salem (Dated: July 6, 2009)**

EOU – removal of computers without payment of duty – The computers were not put to use and were kept idle – no depreciation is allowed – demand of duty upheld – Penalty set aside.

[2009-TIOL-1664-CESTAT-MUM](#)

**Jaipur Golden Transport Co Pvt Ltd Vs CC, Mumbai (Dated: September 4, 2009)**

Board's notifications and orders should be deemed to be within the knowledge of the departmental officers including the two Commissioners who were appointed adjudicating authority for the same SCN – Later notification dated 28.12.2005 impliedly superseded the earlier assignment order dated 02.05.2005 – Order passed by Commissioner of Customs (Adjudication) without jurisdiction - CESTAT.

[Also see analysis of the Order](#)

[2009-TIOL-1663-CESTAT-MUM](#)

**Shri Yusuf Poonawala Vs CC, Mumbai (Dated: September 17, 2009)**

Not only the act of abetment but all acts which render the goods liable to confiscation under section 111 of the Customs Act, 1962 attract penalty u/s 112 of the Customs Act, 1962 – No infirmity in order of lower authority – in the facts and circumstances, penalty reduced and appeal disposed of.

[2009-TIOL-1652-CESTAT-MAD](#)

**M/s Ciba India Ltd Vs CC, Chennai (Dated: June 29, 2009)**

Customs – LIBREL Brand Micronutrients imported by the appellants were held to be classified under Chapter Heading 31.05 of the Customs Tariff Act – though revenue appealed to the Supreme Court against the said order, in absence of any stay order, it is premature for revenue to send communication to the Bank to extend the Bank Guarantee – the communication is set aside.

[2009-TIOL-1648-CESTAT-MUM](#)

**Geo-Chem Laboratories (Rajkot) Pvt Ltd Vs CC, Mumbai (Dated: September 17, 2009)**

Testing laboratory cannot be held liable to penalty on the charge of aiding and abetting in absence of any conscious knowledge in the matter of mis-declaration or over valuation of the goods by exporter – CESTAT

[Also see analysis of the Order](#)

[2009-TIOL-1636-CESTAT-MAD](#)

**CC, Chennai Vs M/s Thamilzh Ponni Exports Enterprises (Dated: June 18, 2009)**

Customs – valuation – spare parts of electric scooters – the goods are in loose packing and since the goods as presented at the time of import were packed in loose condition, they are not pre-packed commodities and assessment based on MRP does not arise.

[2009-TIOL-1635-CESTAT-MAD](#)

**K S Murugan Vs CC, Tuticorin (Dated: May 19, 2009)**

Customs – Stay/Dispensation of pre-deposit - Anti-dumping duty – recovery - a levy introduced retrospectively cannot be recovered under the provisions of Section 28 of the Customs Act, 1962 – pre-deposit waived.

[2009-TIOL-1619-CESTAT-MAD](#)

**M/s Symrise Private Ltd Vs CC, Chennai (Dated: June 3, 2009)**

Customs – refund of excess duty paid due to clerical error – refund rejected by the lower authorities on the ground that the assessment was not challenged - the assessment remained final unless and until the same was disturbed by recourse to a process recognized by law such as filing an appeal does not disentitle an importer to the benefit on consequence of correction of clerical error specifically provided under Section 154 of the Act – the lower authorities wrongly held that Section 154 applied only to clerical errors committed by the officers of the department – the appellants are entitled for refund.

[2009-TIOL-1610-CESTAT-BANG](#)

**CC, Cochin Vs M/s Chennai Marine Trading (Pvt) Ltd (Dated: May 22, 2009)**

Customs – Valuation of cylinders containing import of R134 gas – Corrigendum issued by Appellate Commissioner to rectify order with regard to valuation takes care of revenue's grievance – Imposition of redemption fine of 10% of value of goods does not require any interference

[2009-TIOL-1609-CESTAT-MAD](#)

**TTK Healthcare Ltd Vs CC, Chennai (Dated: May 19, 2009)**

Customs – classification of polypropylene mesh – the impugned goods are classifiable USH 58039090, but not under 9021 as claimed by the importer - The heading adopted by the authorities below namely CTH 58039090 is more appropriate as the goods are more akin to gauze covered under the above heading.

[2009-TIOL-1602-CESTAT-BANG](#)

**M/s Worldwide Diamond Manufacturers Pvt Ltd Vs CCE, Visakhapatnam (Dated: May 11, 2009)**

Customs – Godrej safe procured by 100% EOU manufacturing diamonds for storing raw and finished diamonds are 'office equipment' – Eligible for procurement duty free against CT3 certificate under Notification 126/94

[2009-TIOL-1666-CESTAT-MAD](#)

**PPN Power Generating Company Vs CC, Chennai (Dated: May 29, 2009)**

Customs – rejection of refund claim in spite of the order from the Tribunal – revenue is bound to follow an order of the appellate authority unless operation thereof is suspended by a competent court – lower authorities directed to implement the order and sanction refund.

[2009-TIOL-1665-CESTAT-MAD](#)

**M/s K G Denim Ltd Vs CCE, Salem (Dated: July 6, 2009)**

EOU – removal of computers without payment of duty – The computers were not put to use and were kept idle – no depreciation is allowed – demand of duty upheld – Penalty set aside.

[2009-TIOL-1594-CESTAT-BANG](#)

**M/s Bagadiya Brothers Pvt Ltd Vs CC & CCE, Visakhapatnam (Dated: May 12, 2009)**

Customs – Chemical examiner's report on sample tested after one month not reliable as Fe content changes due to evaporation – Samples drawn at the time of export and test report from reputed laboratory to be accepted – Concessional rate of duty under Notification 62/2007-Cus cannot be denied for iron ore fines exported with Fe content less than 62%

<a href="#">2009-TIOL-1593-CESTAT-BANG</a>
<b>M/s Reliance Communications Infrastructure Ltd Vs CC, Bangalore (Dated: February 25, 2009)</b>
Customs – Import of Gas Suppression System allowable as capital goods for benefit of EPCG scheme – Goods should be assessed in the form in which they are presented – EPCG license was granted after scrutiny by a Committee comprising representatives of DGFT and CBEC – Once, the committee permitted issue of EPCG license for the system Customs cannot dissect the system and hold that one part of the system is consumables and cannot be treated as capital goods – Impugned order set aside
<a href="#">2009-TIOL-1590-CESTAT-MUM</a>
<b>Shipping Corporation of India Ltd Vs CC, Mumbai (Dated: August 25, 2009)</b>
Suppression not shown to have been indulged with intent to evade payment of duty, however suppression ipso facto would render the vessel liable to confiscation under section 111 of the Customs Act – Penalty u/s 112 imposable – CESTAT orders M/s ONGC to make pre-deposit of Rupees Ten lakhs within four weeks and report compliance.
<a href="#">Also see analysis of the Order</a>
<a href="#">2009-TIOL-1576-CESTAT-MUM</a>
<b>Cadbury India Ltd Vs CC, Pune (Dated: August 31, 2009)</b>
Imported Chocolate confectionery contaminated with Melamine and containing living larvae – unfit for human consumption - goods confiscated absolutely and penalty imposed equal to value of goods – CESTAT finds prima facie case and orders pre-deposit.
<a href="#">Also see analysis of the Order</a>