

**Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad**

REGIONAL BENCH- COURT NO. 1

CUSTOMS Appeal No. 10036 of 2015-DB

(Arising out of OIA No. KDL-CUSTOMS-000-APP-393-14-15 Dated-09.10.2014 passed by Commissioner of CUSTOMS-AHMEDABAD)

BHATIA SHIPPING PVT LTD

GOLDEN ARCADE, 1ST FLOOR,
OFFICE NO. 113, PLOT NO. 141-142, SECTOR-08,
GANDHIDHAM, GUJARAT

.....Appellant

VERSUS

COMMISSIONER OF CUSTOMS-KANDLA

CUSTOM HOUSE,
NEAR BALAJI TEMPLE,
KANDLA, GUJARAT

.....Respondent

APPEARANCE:

None appeared for the Appellant

Shri Anand Kumar, Superintendent (Authorized Representative) for the Respondent

**CORAM: HON'BLE MR. RAJU, MEMBER (TECHNICAL)
 HON'BLE MR. SOMESH ARORA (JUDICIAL)**

Final Order No. A/ 11665 /2023

DATE OF HEARING:04.08.2023

DATE OF DECISION:04.08.2023

RAJU

When the matter was called, it was noticed that the hearing has been fixed number of times i.e. on 20.02.2023, 23.03.2023, 20.04.2023 and 04.07.2023 and no one appeared on behalf of the appellant. The notice was served through the Authorized Representative's office also however no one appeared. The appeal has been taken up for hearing ex-parte.

This appeal has been filed by Bhatia Shipping Private Limited against imposition of penalty for failure to properly perform the duty of CHA. A penalty has been imposed under Section 114(iii) for violation of provisions of Section 34, 40 and 51 of the Customs Act.

The claim of the appellant is that the goods are liable for confiscation under Section 113 and therefore no penalty can be imposed. It is seen that Clause (g) of Section 113 read as under:

*"Section 113. Confiscation of goods attempted to be improperly exported, etc. –
The following export goods shall be liable to confiscation:--*

.....

(g) any goods loaded or attempted to be loaded on any conveyance, or water-borne, or attempted to be water-borne or attempted to be water-borne for being loaded on any vessel, the eventual destination of which is a place outside India, without the permission of the proper officer;"

In the instant case, the goods were allowed to be loaded without let export order of the Custom Officer. It is duty of the CHA to ensure that proper procedure is followed. In these circumstances, we do not find any merit in the appeal. The same is dismissed.

(Dictated and Pronounced in the open court)

(RAJU)
MEMBER (TECHNICAL)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Neha