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

REGIONAL BENCH- COURT NO. 02

Customs Appeal No. 12794 of 2018

[Arising out of OIO-KDL-CUSTM-000-COM-24-17-18 dated 06/02/2018 passed by the Commissioner of CUSTOMS-KANDLA]

Shri Prakash Charia **.....Appellant**
M/s Balaji International, 15, India Exchange Place,
1st Floor, KOLKATA, WEST BENGAL

VERSUS

C.C.-Kandla **.....Respondent**
Custom House, Near Balaji Temple,
Kandla, Gujarat

APPEARANCE:
Shri.Chiranjeev Tandon, Advocate for the Appellant
Shri. Aakash Singh, Superintendent (AR) for the Respondent

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

Final Order No. 10859/2025

DATE OF HEARING:29.10.2025
DATE OF DECISION:29.10.2025

SOMESH ARORA

The appellants are against the penalty of Rs. 1 Lakh imposed on them. The quantum of penalty imposed has not been contested by the department. At this stage, this court finds that there was forgery done in a particular licence which was used by the importer. The forgery was diligently carried out and could not be detected by appellant including the Customs Officers who did the clearance. There is no confessional statement of the appellant who brokered the deal of getting the licence which was found of the forged.

2. Learned Advocate pleads that the 112(a) of Customs Act requires mens rea and seeks to rely on the decision of Hon'ble Gujarat High Court as cited in 2011 (269) ELT 153 (Guj.) in the matter of Commissioner of Customs Vs. Sanjay Agarwal in which matter forged licence was used for DEPB fraud and it was found that such infringement was for the DGFT authorities to decide and was not within the competence of Customs Authorities.

3. Learned AR opposes the prayer on the ground that the appellant being a broker of the forged licence could not have been unaware of the forgery and penalty has been properly imposed.

4. This Court has gone through various factors including the quantum of penalty imposed in the absence of any confessional statement on the part of the appellant and also the decision quoted of Hon'ble Gujarat High court

(cited supra) about the competence or otherwise of the Customs Authorities. On the cumulative appreciation of all the circumstances including the quantum of Rs. 1 Lakh penalty which is not being challenged by the department but is only being challenged by the party, the absence of any inculpatory statement etc this Court finds that the penalty of Rs. 1 Lakh cannot be sustained. Same is therefore set aside with consequential relief.

(Dictated & Pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Prachi