

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38, MG Marg Civil Lines, Old Red Building, Allahabad-211001
Regional Branch, Allahabad

Dated: 28/11/2017

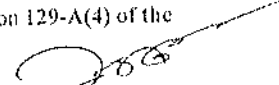
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71652/2017-SM[BR] dated 22/11/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 129-A(4) of the Customs Act, 1962.


 Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	C/70211/2016	Millard Logistics Pvt Ltd 3-C, Ram Kuteer Apartment, 3a/206, Azad Nagar KANPUR (UP)-208002

Name and Address of
Respondent

2		C.C.E. & S.T.-Kanpur 117/7...SARVODYA NAGAR, KANPUR, UTTAR PRADESH-208005
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Copy To3 Advocate(s) / Consultant(s):

AMIT AWASTHI ADVOCATE
7/116A, H-1, 1ST FLOOR,
RADHEY APARTMENT,
SWAROOP NAGAR, KANPUR-
208002

4 Bar Association, CESTAT, Allahabad

5 Director Publications, Customs, Excise, I.P. Estate, Delhi

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaidhyaram Street, T. Nagar, Chennai-17

8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 38

12 The ICFAI society, 52, Nagarjuna Hill, Punjagutta Hyderabad.-500082

13 M/S Knowledge Processing Pvt. Ltd.(taxmanagementindia.com), FF-19, 1st Floor, Cross River Mall, CBD Ground, Near Karkardooma Court, Delhi-110032

14 C.D.R.

15 Office Copy

16 Second Folder Copy

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 Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. C/70211/2016-CU[SM]

(Arising out of Order-in-Original No. KNP-EXCUS-000-COM-022-15-16
dated 27/11/2015 passed by Commissioner of Central Excise & Customs,
Kanpur)

M/s Millard Logistic Pvt. Ltd.

Appellant

Vs.

Commissioner of Central Excise, Kanpur

Respondent

Appearance:

Shri Vaibhav Dixit (Advocate)
Shri Pawan Kumar Singh (Supdt.) AR

for Appellant
for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Date of Hearing : 22/11/2017
Date of Decision : 22/11/2017

FINAL ORDER NO. 71652/2017



Per: Archana Wadhwa

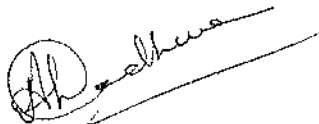
The challenge in the present appeal is to imposition of penalty of Rs. 50,000/- imposed upon the appellant, who is a CHA, in terms of Regulation 22 of Customs Broker Regulations 2013.

2. As per the facts on record the appellant is customs broker, holding customs broker license working at Kanpur. He was also having a permission to act as customs brokers at other ports including the various ports of Bombay. As per the

investigation conducted at Bombay, in respect of import by one M/s R. N. Trading, it was found that a consignment of Assorted Soft drinks, Juice, Chocolate Baked Beans, Vinegar & Sauces was sought to be cleared on the basis of false and forged documents. The import required a certificate from FSSAI and such import certificate submitted was found to be fake.

3. It is seen that prior to initiating present proceeding against the said customs brokers, his license was suspended and the matter travelled to Tribunal. The CESTAT Bombay vide its Order No. A/707/15/CB dated 11.03.2015 held that there is no serious charges against the appellant, nor there is any alleged loss of revenue and nor any reasons have been stated in the impugned order requiring prohibition of the appellant's licence. Accordingly, the order of prohibition against the present broker was set aside. The said order of the Tribunal was appealed against by the Revenue before the Hon'ble Bombay High Court, who directed the authorities to expedite proceedings as regards their revocation of the license. Hence the present impugned order by the Commissioner vide which he has dropped the proceedings for revocation of the license but imposed penalty at Rs.50,000/- in terms of Regulation 22.

4. After hearing both the sides, I find that the appellant's employee, Shri Hemant Kumar Pol who was concerned

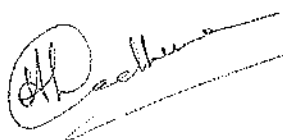


dealing person with imports, had made genuine efforts for obtaining the NOC from FSSAI. Fraud was committed by one agent Shri Sachin, who provided the forge fake documents. I also note that there was no loss of revenue and statement of the Director was never recorded. The entire act was done by the assessee's employees without knowledge of the Directors. The enquiry report submitted by the Assistant Commissioner has brought out the above facts clearly.

5. The Commissioner has dropped revocation proceedings but imposed penalty on the ground by observing as under:-

"Now, on the basis of above it is observed that the impugned goods were later on found as per norms of the FSSAI and NOCs were issued by the FSSAI; that there is no evidence that the CB was actively involved or was aware of improper action of his employee; and that no revenue implication is proved. Under the circumstances, I am of the opinion that circumstances leading to contravention are not serious and grave enough for revocation of CB's license."

6. However, penalty is imposed on the ground that he has not been able to control his employees. On appreciating the fact that FSSAI has subsequently issued the NOC that the goods have been cleared for home consumption and in the absence of any evidence to show that present CB was actively involved in improper action of his employee Shri Hemant Pol and was having any knowledge of the illegal act done by his employees, I find no justifiable reasons to impose penalty



upon the appellant. Accordingly, the same is set aside and appeal is allowed with consequential relief.

(Dictated & Pronounced in Court) _____

Sd/-

(Archana Wadhawa)

Member(Judicial)

Lks

प्रमाणित प्रति/Certified True Copy
 01/01/18
 सहायक पंजीकरण/Asstt. Registrar
 सीमाशुल्क, इलाहाबाद एवं सीमा कर
 अपील अधिकार्या(C.E.S.T.A.T.)
 38, एन.जी.मार्ग, इलाहाबाद-211001
 38, N. G. MARG, AL/Allahabad-211001

