FAX : 0532-2400149

REGISTERED / AD

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

Dated: 25/10/2017

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. A/71274-71275/2017-SM[BR] dated 23/10/2017

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/70868/2016	**Patel Parcel Service Pvt Ltd** 6460,gali Peepalwali,katra,baruyan,fatehpuri DELHI DELHI 110006
2	C/70869/2016	**Nitin Kumar Kavedia Director** S/o Khubi Lal Kavedia ,c/o Patel Parcel Service Pvt Ltd,6460,gali Peepalwali,katra,baruyan,fatehpuri DELHI DELHI
		Name and Address of Respondent
1		-Lucknow Prev Additional Commissioner, Customs(Preventive) Commissionerate 5th Floor Kendriya Bhawan, Sector-H, Aliganj, Lucknow LUCKNOW Uttarpradesh-226024
2		-Lucknow Prev Additional Commissioner, Customs(Preventive) Commissionerate 5th Floor Kendriya Bhawan, Sector-H, Aliganj, Lucknow LUCKNOW Uttarpradesh-226024

Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s):

A. P. Mathur
167, TAGORE TOWN,
Allahabad,
Uttar Pradesh

6 Bar Association, CESTAT, Allahabad

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

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

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

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

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

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

13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

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

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

16 C.D.R. 17 Office Copy 18 Second Folder Copy ~~19 Guard File~~

Asstt. Registrar

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

APPEAL Nos.C/70868-70869/2016-CU[SM]

(Arising out of Order-in-Appeal No. 381-382-CUS/APPL-ALLD/LKO/2016 dated 13/05/2016 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Lucknow)

M/s Patel Parcel Service Pvt. Ltd. (in Appeal No.C/70868/2016) **&**

Shri Nitin Kumar Kavedia, Dirctor (in Appeal No.C/70869/2016) **Appellants**

Vs.

Commissioner of Customs (Preventive), Lucknow **Respondent**

Appearance:

Shri A.P. Mathur, Advocate for Appellants
Shri Gyanendra Kumar Tripathi, Asstt. Commr (AR), for Respondent

CORAM:

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 23/10/2017
Date of Decision : 23/10/2017

FINAL ORDER NOs-71274-71275/2017

Per: Anil G. Shakkarwar

The present two appeals are directed against a common Order-in-Appeal No. 381-382-CUS/APPL-ALLD/LKO/2016 dated 13/05/2016 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Lucknow. Therefore, they are taken together for decision.

2. The brief facts of the case are that on 31.01.2014 officers of Directorate of Revenue Intelligence seized imported cigarettes contained in eight jute Bags from Railway Parcel office at Varanasi Railway Station. During investigation it became known that the said goods were booked by four persons by name Shri Bunty, Shri Ajay, Shri Rakesh and Shri Sohan Lal staying in Delhi-6. The goods were booked with M/s Patel Parcel Service Pvt. Ltd. at their office in Delhi-6. It has further come to knowledge that the consignments were booked declaring the same as "Art Silk Saree" in the forwarding note when they were booked with Indian Railway at Parcel Office, New Delhi Railway Station. A show cause notice dated 25.07.2014 was issued proposing confiscation of said goods. The said show cause notice also included a proposal to impose penalty under Section ~~111~~ 112(b) of the Customs Act, 1962 on M/s Patel Parcel Service Pvt. Ltd. (present appellant) and its Director Shri Nitin Kumar Kavedia (other appellant). The said show cause notice was adjudicated through the Order-in-Original No.56/2015 dated 15.07.2015. Both the appellants submitted before the original authority that their role was limited to booking the packages brought for transportation by train to its destination and further

submitted that Customs Act, 1962 did not cast any obligation on transporter to check and verify the content of the packed goods, nor any other law cast any obligation on the transporter and the transporter does not have any right to check and verify the goods. They further pleaded that they have not contravened provisions of Customs Act, 1962 and therefore, they were not liable to penalty. The Original Authority did not appreciate the contention of the appellants and imposed penalty of Rs.1 lakh each on both the appellants under Section 112 ~~114~~(b) of Customs Act, 1962. Aggrieved by the said order, both the appellants preferred appeal before the Commissioner (Appeals). The learned Commissioner (Appeals) decided the said appeals through the impugned Order-in-Appeal dated 13.05.2016. The learned Commissioner (Appeals) did not interfere with the said Order-in-Original dated 15.07.2015 and dismissed the appeals filed before him. Aggrieved by the said order both the appellants are before this Tribunal.

3. The grounds of appeal are as follows:-

i. The role of appellants was merely providing Courier service and they were not concerned with the seized goods.

ii. The appellants had no knowledge about the contraband nature of the seized goods.

iii. The appellants booked the goods only after taking the declaration from the consigner of the goods.

iv. There is no evidence on record, establishing that the goods were brought to India through unauthorized route.

4. Heard the learned Counsel for appellants. He has submitted that the goods seized were Cigarettes of Foreign origin. The appellants were providing Courier Service. They booked the goods on the basis of declarations given by the consigner. They had no reason to suspect that the goods were contraband. Revenue have not brought any evidence on record to establish that the appellant had knowledge that the said goods were liable for confiscation. Therefore, he prayed that the penalties may be set aside.

5. Heard the learned A.R. who has submitted that the person who is dealing with the goods liable for confiscation is liable for imposition of penalty.

6. Having considered the rival contentions and on perusal of records, I did not come across any evidence brought forward by Revenue to establish that the appellant had knowledge that the goods booked through their transport agency or currier agency were liable for confiscation. Therefore, I set aside the penalties imposed on both the appellants and modify the Order-in-Appeal dated 13.05.2016 to that extend and allow both the appeals. The appellants shall be entitled for consequential relief, as per law.

(Dictated in Court)

-Sd/-
(ANIL G. SHAKKARWAR)
Member (TECHNICAL)

akp

प्रमाणित प्रति/Certified True Copy
01/11/17

सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण/C.E.S.T.A.T.)
38, एम.जी.मार्ग, इलाहाबाद-211001
38. M. G. MARG,ALLAHABAD-211001