CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 21 of 2012

(Arising out of Order-in-Original No.19/2011-Cus. Adjn. dated 23.09.2011 passed by the Commissioner of Customs, Bangalore.)

The Commissioner of Customs I Floor, CR Building Queens Road, Bangalore – 560 001.	Appellant(s)

Versus

M/s. DHL Lemuir Logistics Pvt Ltd No.101/103, Prime Corporate Park Sahar Road Andheri (East) Mumbai – 400 059.	Respondent(s)

Appearance:

Shri K. Vishwanath, AR	For the Appellant
Shri Prakash Shah, Sr. Advocate	For the Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 21519 /2023

Date of Hearing: 07.12.2023
Date of Decision: 07.12.2023

Per : R. BHAGYA DEVI

The respondent, M/s. DHL Lemuir Logistics Pvt Ltd., are Customs House Agents (CHA) who used to handle clearance of consignments of tyres imported by M/s. Michelin India Tyres Pvt. Ltd., China. During the course of investigation on import of tyres by M/s. Michelin India Tyres Pvt. Ltd., it was found that certain documents were forged/fabricated in connivance with the CHA with an intention to evade antidumping duty. From the investigation report furnished by the Commissioner of Customs, Nhava Sheva, it was seen that the documents were doctored by the importer to avail duty benefits to the tune of around Rs. 6.23 crores. Since the respondent had filed the Bill of Entry and having violated the conditions of CHA license, his license was suspended under the Regulations of Customs House Agents Licencing Regulations (CHALR), 2004. After detailed investigations, demand was confirmed against the importer and the CHA licence was suspended. In the impugned order, this suspension was challenged by the respondent and the Commissioner observing that the antidumping duty imposed on tyres has been set aside by CESTAT, Principal Bench, New Delhi vide its order dated 4.8.2011 and also taking into the fact that considerable time has passed and wrong doing of few employees of the respondent had not proved that the respondent had gained any financial benefit. The learned Commissioner (A) revoked the licence of CHA under Regulation 22 of CHALR, 2004.

2. The learned counsel on behalf of the respondent submitted that Commissioner of Customs, Bangalore had suspended their license vide suspension order dated 26.10.2010. On an appeal before the CESTAT, the Tribunal vide Final Order No.224/2011 dated 14.3.2011 rejected the respondent's appeal upholding the suspension order but directed the Commissioner to hear the respondent and pass orders under Regulation 20(3) of CHALR.

Complying with the above order, the Commissioner in the impugned order had revoked the suspension order on which the department is in appeal.

3. The department has filed an appeal on the ground that as per Regulation 8 of the CHALR, the respondent had to supervise and ensure proper conduct of all his employees in the transaction of business and will be held responsible for any acts or omissions of his employees. It is also submitted that from final investigation report, it is very clear that information was suppressed by the respondent which resulted in payment of lesser antidumping duty and therefore, revocation of suspension was not in order.

4. Heard both sides. The licence was suspended from 26.10.2020. The offence committed by the importer was fabricating of documents to evade antidumping duty and it is on record that the antidumping duty imposed on tyres imported from Thailand and China has been set aside by the CESTAT, Principal Bench, vide its order dated 4.8.2011. Moreover, this order for revocation of suspension was issued on 23.9.2011. The respondent has also placed on record CHA Licence No.R-39/99 dated 20.10.1999 of M/s. DHL Logistics Pvt. Ltd., Bangalore issued under Regulation 10(1) of CHALR, 1984 has been renewed for a further period of 10 years i.e., up to 9.10.1924 in terms of Regulations 9(2) of CHALR, 2013 to transact business in the jurisdiction of Bangalore Customs Commissionerate.

5. In view of the above discussion, we find that after 13 years of the impugned order being passed and the license having already been renewed, the department's appeal is of no significance and therefore, the Revenue's appeal is dismissed.

(Operative portion of the Order was pronounced in Open Court on conclusion of hearing.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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