CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
BANGALORE

<u>Appeal(s) Involved:</u>

C/22730/2014-SM

[Arising out of Order-in-Original No. 07/2014 dated 31/01/2014 passed by the Commissioner of Customs, Mangalore]

M.K. Salih S/o. Aboobacker, 47 Years, M.K House, P.O. Chirakkara, Thalassery, Kannur Dist. Kerala	**Appellant(s)**

Versus

Commissioner of Central Excise and Service Tax, Mangalore 7th Floor, Trade Centre, Bunts Hostel Road, Mangalore – 575 003 Karnataka	**Respondent(s)**

<u>Appearance:</u>

Mr. K.M. Girish Kumar, Advocate Thalassery Kerala	For the Appellant
Mr. Madhupsharan, Assistant Commissioner (AR)	For the Respondent

Date of Hearing: 09/04/2018
Date of Decision: 09/04/2018

CORAM:
HON'BLE MR. S.S GARG, JUDICIAL MEMBER

<u>Final Order No. 20538 / 2018</u>

Per : S.S GARG

The present appeal is directed against the impugned order dated 31.01.2014 passed by the Commissioner of Customs whereby the

Commissioner has imposed a penalty of Rs. 25,00,000/- (Rupees Twenty Five Lakhs only) on the appellant under Section 114(i) of the Customs Act, 1962. Briefly the facts of the present case are that on a specific information by the officer of DRI Red Sandal type of wood prohibited for export under the prevalent Foreign Trade Policy (FTP) 2009-2014 framed under Foreign Trade (Development and Regulation) Act 1992 was being exported illegally by M/s. R. Nath Exports through New Mangalore Port by concealing in the consignment of plywood. According to the Department, the appellant arranged a godown at Ullal for storing the contraband goods clandestinely and further transported the sme to Chikki godown. The Commissioner (Appeals) has held that the appellant has colluded with Abdul Kalam in smuggling operation and thereby he imposed a penalty of Rs. 25,00,000/- (Rupees Twenty Five Lakhs only) on the appellant.

2. Heard both the parties and perused the records.

3. Learned counsel for the appellant submitted that the impugned order is not sustainable in law as the same has been passed without appreciating the facts and the material on record. He further submitted that the only allegation against the appellant is that he had arranged a godown at Ullal for storing the contraband goods clandestinely and further transported the same to Chikki godown. He also submitted that during the pendency of the appeal, the appellant died on 18.01.2018 at Abudhabi, U.A.E. He has also furnished the Death Certificate of Salih issued by Mahe Municipality. He further submitted that as per the Rule 22 of CESTAT (Procedure) Rules, the present

appeal which is only against the imposition of penalty will abate. Since in the present appeal imposition of penalty has been challenged and the appellant has since died, therefore, in view of Rule 22 of CESTAT (Procedure) Rules, the present appeal cannot proceed and will abate. Accordingly I order that the present appeal abates on the death of the appellant.

(Operative portion of the Order was pronounced
in Open Court on **09/04/2018**)

(S.S GARG)
JUDICIAL MEMBER

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