CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Appeal(s) Involved:

C/20657/2019-SM

[Arising out of Order-in-Appeal No. TVM-EXCUS-000-APP-150-2019 dated 29/03/2019 passed by the Commissioner of Central Tax, Cochin (Appeals)]

V. Stanley Paulus Island Aviation Services Ltd. T.C 25/863, Panavila Junction, Thycaud Trivandrum Kerala	**Appellant(s)**

VERSUS

Commissioner Of Central Tax And Central Excise, Thiruvananthapuram P.B. No.13, I.C.E Bhawan, Press Club Road Thiruvananthapuram – 695 001 Kerala	**Respondent(s)**

Appearance:

Mr. V. Stanley Paulus, Authorized Representative	For the Appellant
Mr. Madhup Sharan, Asst. Commr. (AR)	For the Respondent

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

Final Order No. 20705 / 2019

Date of Hearing: 04/09/2019
Date of Decision: 04/09/2019

Per : S.S GARG

The present appeal is directed against the impugned order dated 29.03.2019 passed by the Commissioner (Appeals) whereby the Commissioner (Appeals) has rejected the appeal of the appellant.

2. The brief facts of the case are that, that based on specific intelligence that the M/s. Island Aviation Services Ltd. have been indulging in illegal act of export of articles such as medicines, textiles and other goods on commercial purpose to Maldives and import of US Dollars by crew members on board, stationery and other articles from Maldives to Trivandrum in the guise of passenger baggage. The AIU officers on 18.11.2015 noticed a consignment was attempted to be placed into the cargo hold of Maldivian aircraft Q2 701, it was revealed that the consignment was one of the checked-in baggage bearing the tag no. Q2923278 of a Maldivian passenger named Rasheed Mohammed Rushdhaa. The duty manager of the Airlines informed that the baggage actually belonged to Maldivian Airlines and it contained the posters required for the business purpose at Maldives by M/s. Island Aviation Services Ltd. The consignment was intended to be lifted to Maldives without being reflected in the export cargo manifest or any other documents. As the consignment did not appear to be genuine baggage of a passenger the same was offloaded from the aircraft. The consignment was opened to examine the contents and the entire quantity of posters were seized.

3. Heard both the parties and perused the records.

4. The appellant appear in person and submitted that there is no justification for imposing the penalty on the appellant under Section 117 of the Act because the appellant is not at all involved in the illegal export of the baggage. He further submitted that the only issue involved in the present case is whether the seized packet can be considered as a bona fide baggage. He further submitted that the Customs seized consignment of 193 posters valued at Rs. 19,300/- and weighing 8.74 K.g bound to Maldives by flight No. Q2-701 dated 18.11.2015 and the said packet belong to one passenger Rasheed, Maldives citizen who was bound to travel to Maldives by the said flight. A relative of the said passenger had requested him to carry a packet weighing 8.74 kgs containing 193 posters. He further submitted that there is no condition that in the Customs Act or in the Baggage Rules that a passenger shall not carry bona fide things belonging to his friend. He further submitted that poster printed by Airlines are neither prohibited nor restricted and it was not big enough to consider as a trade quantity. He further submitted that both the authorities have wrongly come to the conclusion that the said baggage is not a bona fide baggage.

5. On the other hand the learned AR defended the impugned order.

6. After considering the submissions of both the parties and perusal of the material on record, I find that the packet containing 193 posters of Maldives Airlines was being handed over to Rasheed who was flying to Maldives and this quantity is not a prohibited quantity and moreover the value of the same was only 19,300. Further the learned AR did not convince me that the said baggage is not a bona fide baggage and is in violation of the Baggage Rules. He has not been able to point out which Rule has been violated in the present case. Moreover, nothing has been brought on record against the appellant so as to involve him

in the illegal export. In view of my discussion above, I do not find any justification for imposing the penalty of Rs. 5,000/- (Rupees Five Thousand only) on the appellant under Section 117 of the Customs Act. Therefore, I set aside the said penalty by allowing the appeal of the appellant.

(Operative portion of the Order was pronounced
in Open Court on **04/09/2019**)

(S.S GARG)
JUDICIAL MEMBER

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