IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI

C/41492,42595/2017

[arising out of Order-in-Original No.54684/2017, dated 28.03.2017 passed by the Commissioner of Customs, Chennai-VIII]

M/s. RASPN SHIPPING SERVICES PVT. LTD. APPELLANT

Versus

COMMISSIONER OF CUSTOMS, CHENNAI-VIII RESPONDENT

Appearance:

For the Appellant	Shri R. Kumar, Adv.
For the Respondent	Shri R. Subramaniyan, AC (AR)

CORAM:

Hon'be Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Shri V. Padmanabhan, Member (Technical)

Date of hearing/decision **12.03.2018**

FINAL ORDER NOs.40649-40650/2018

Per Archana Wadhwa:

Both the appeals are being disposed of by a common order as they arise out of the same set of facts and circumstances. One appeal is against CHA's suspension and the other is against the order of revocation. Inasmuch as, the CHA's licence stand revoked by the subsequent order, the earlier appeals against suspension has become infructuous. The same is accordingly disposed of as such.

2. As against revocation of the licences, the appellant is assailing the same on the point of limitation by submitting that the Commissioner of Customs has not completed the proceedings within the period prescribed in Regulation 20 of Customs Brokers Licensing

Regulation, 2013. There is a delay at every stage and violation of the mandatory time-limit prescribed under the Act.

3. Regulation 20(1) requires issuance of the show-cause notice within 90 days from the date of receipt of the offence report. The offence report was forwarded by DRI on 02.12.2016 and as per the Revenue, it was received on 23.12.2016. The show-cause notice was issued on 06.04.2017, with a delay of 108 days. Further, the inquiry officer's report dated 21.07.2017 was served on 01.08.2017 i.e., after 118 days of the issuance of the show-cause notice, whereas, Regulation 20(5) requires preparation of the report by the Inquiry Officers, within a period of 90 days from the date of receipt of the show-cause notice. Similarly, order is required to be passed by Commissioner of Customs within 90 days from the date of submission of Inquiry Report, in terms of the provisions of Regulation 20(7), whereas, the same has been passed after expiry of 92 days.

4. We note that the law is very clear and it stands held that the time-limit prescribed under the Customs Brokers Licensing are sacrosanct and are required to be adhered to. Reference can be made to Hon'ble Madras High Court decision in the case of *M/s. Sowparnika Shipping Services Vs Commissioner of Customs, Chennai-VIII* reported in *2017 (352) E.L.T.286 (Mad.)* as also to another decision of the High Court in the case of *M/s. Patriot Freight Logistics System Vs. Commissioner of Customs, Chennai* reported in *2017 (350) E.L.T. 59 (Mad.)*, as also in the case of *Commissioner of Customs, Tuticorin Vs M/s. MKS Shipping Agencies Pvt. Ltd.* reported in *2017 (348) E.L.T.640* and in the case of *M/s. Masterstroke Freight Forwarders Pvt. Ltd. Vs Commissioner of Customs, Chennai-I* reported in *2016 (332) E.L.T.*

300 (Mad.). The list is unending and *the law is almost settled. The Hon'ble Delhi High Court in the case of M/s. Indair Carrier Pvt. Ltd. Vs Commissioner of Customs (General)* reported in *2017 (337) E.L.T. 41 (Del.)* has set aside the revocation of the CHA's licences on the ground that time-limit prescribed under the regulations were not being adhered to.

5. Inasmuch as, admittedly in the present case, the time prescribed under the Customs Brokers Licensing Regulations has not been followed, failure to do so will result in setting aside the order arising out of such provisions. As such, without going into merits of the case, we set aside the order of revocation and restore the licence on the above ground itself.

6. Both the appeals are accordingly disposed of.

(Dictated and pronounced in open court)

(V. PADMANABHAN)
MEMBER (TECHNICAL)

(ARCHANA WADHWA)
MEMBER (JUDICIAL)

ksr
14-03-2018

	DRAFT			Remarks
	I	II	III	
Date of dictation	12.03.2018			
Draft Order - Date of typing				
Fair Order Typing	14.03.2018			
Date of number and date of dispatch	15.03.2018			