CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNALSOUTH ZONAL BENCH CHENNAI

Appeal No.C/41289/2015

[Arising out of Order-in-Original No.38104/2015 dt. 22.05.2015 passed by the Commissioner of Customs, Chennai-V]

Sri Saravana Shipping Services (P) Ltd. — Appellant

Versus

Commissioner of Customs, Chennai-V — Respondent

Appearance:

Shri G. Derrick Sam, Advocate
For the Appellant

Shri B. Balamurugan (AC) AR
For the Respondent

CORAM :

Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Madhu Mohan Damodhar, Technical Member

Date of hearing / decision : 04.04.2017

FINAL ORDER No. 40595/2017

Per D.N. Panda

Dates and Events chart produced by appellant *prima facie* shows as follows :

S.No.	Date	Description
1.	28.04.2009	Offence Report/Show Cause Notice F.No.VIII/26/2011-DRI, TTN, issued for penalty under the Customs Act on Mr.V.Thiruvalagan, Proprietor of M/s.Shalom Forwarders.
2.	05.06.2014	Show Cause Notice issued under Regulation 20 (1) of CBLR, 2013.
3.	05.09.2014	Inquiry Report
4.	22.05.2015	Order passed by Commissioner of Customs, revoking the CHA License under Regulation 20 of CHALR 2004.

2. When the law relating to CHALR regulation is codified in CBLR 2013, there cannot be a deviation to the limitation prescribed in respect of each event enumerated therein. Appellant says that Tribunal has made a comparison of previous regulations and new regulations on limitation in its order in the case of *Ambika Enterprises Vs CC (Import & General), New Delhi* – 2016 (343) ELT 1022 (Tri.-Del.) and held that there should not be breach of limitation prescribed under the regulation since time is essence of the proceeding touching livelihood of the CHA.

3. There is no disagreement by Revenue in respect of date of issuance of the show cause notice, inquiry report and the impugned order passed by ld. Commissioner. But the only dispute of Revenue is that the entire set of documents was received by the appropriate authority on 14.03.2014 and limitation should start from that date. Appellant says occurrence of the offence being on 28.04.2009, show cause notice should have been issued by 27.07.2009.

4. When the very initiation of the proceedings was time-barred as is revealed from the above date chart, consequences flowing therefrom are void. Accordingly, appeal is allowed. To hold so, we are guided by the judgement of the Hon'ble Madras High Court in the case of *Patriot Freight Logistics System Vs CC Chennai* vide order dt. 3.2.2017 in W.P.No.44344 and 44345 of 2016 etc. and *A.M. Ahamed & Co. Vs CC (Imports), Chennai* – 2014 (309) ELT 433 (Mad.).

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5. In the result, appeal is allowed by setting aside the impugned order.

(Dictated and pronounced in open court)

04/04/2017

(MADHU MOHAN DAMODHAR)
TECHNICAL MEMBER

4.4.2017

(D.N. PANDA)
JUDICIAL MEMBER

ksr

Customs, Excise & Service Tax Appellate Tribunal

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चेन्नै/Chennai