

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
CHENNAI**

**Appeal Nos.C/95/2008, C/122/2008,
C/123/2008 & C/124/2008**

[Arising out of Order-in-Original No.7144/2008 dated 06.02.2008
passed by the Commissioner of Customs (Seaport-Export), Chennai]

1. Sabari Exim Pvt. Ltd.
 2. Saravana Shipping Services Pvt. Ltd.
 3. P. Siva Sankaran
 4. M. Jagadish
- Appellant

Versus

Commissioner of Customs (Port-Export)
Chennai

Respondent

Appearance:

Dr.S. Krishna Anand, Advocate
For the Appellant

Shri K. Veerabhadra Reddy, JC (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 : 31.01.2017

FINAL ORDER No. 40157-40160/2017

Per D.N. Panda

Appeal No.C/95/2008

Allegation of Revenue was that there was misdeclaration of the
description of imported goods as "Non-Alloy Steel Re-rollable Scrap".
While such goods were found to be "Alloy Steel Re-rollable Scrap"
proved from laboratory test report.



2. The palpable plea was raised by the appellant before the adjudicating authority that sample of the entire lot was not taken which has defeated the purpose of law. Same stand was reiterated before Tribunal. It may be stated that sample is taken only to represent the goods but not entire lot shall become the sample. Ld. Adjudicating Authority examined the manner of taking of the sample and the appellant failed to satisfy that the sample taken from the lot was not representative of the entire consignment. There is nothing irregularity found from record in sample taken by Customs. Therefore on this count, appeal fails.

3. So far as misdeclaration of description of goods is concerned, appellant failed to discard the report of NML who have examined and found out the goods to be Alloy Steel. Although appellant pleaded that NML report is not proper, nothing was demonstrated as to the reason why that was not proper. Appellant was aware that DFRC licence was issued to it for the purpose of import. But appellant abuse the same importing misdeclared goods.

4. When appellant could not succeed against misdeclaration of description of imported goods and NML report established the quality test, misdeclaration of description of goods is established. Accordingly, there is no need to interfere to the adjudication order for which the Appeal No. **C/95/2008** filed by M/s. Sabari Exim Private Ltd. is dismissed.



5. The above appeal has given rise to other three appeals ie. C/122 to 124/2008. In these appeals, following appellants have faced penalty as under :-

S.No	Cause List Sl.No.	Appeal No.	Appellant	Penalty Imposed u/s 112 (a)
1.	26	C/122/2008	Saravana Shipping Services Pvt. Ltd.	50,000
2.	27	C/123/2008	P. Siva Sankaran	25,000
3.	28	C/124/2008	M. Jagadesh	10,000

Appeal No.C/122/2008

The CHA viz. M/s.Saravana Shipping Services Pvt. Ltd., although, claimed to be innocent, it does not appeal to common sense how a CHA acts in Customs area unconsciously. It had proper knowledge of the consignments attempted to be cleared from the Customs area on the basis of documents it had prepared and filed. Although it has right to plead innocence that has not been circumscribed by any evidence. Therefore penalty on it is confirmed and its appeal No.**C/122/2008** is dismissed.

Appeal No.C/123/2008

6. So far as Manager, Shri P. Siva Sankaran is concerned, penalty of Rs.25,000/- is imposed on him. He was also a conduit in the misdeclaration having his conscious involvement and having useful knowledge of the nature of the goods imported. Therefore, no concession in penalty is possible to be granted to him for which his appeal No.**C/123/2008** is dismissed.



Appeal No.C/124/2008

7. So far as M. Jagadish, Clerk is concerned, there is penalty of Rs.10,000/-. There appears no material on record to implicate him to the offence alleged. Accordingly, he is exonerated from penalty. Only his appeal No.**C/124/2008** is allowed.

(Dictated and pronounced in open court)



(Madhu Mohan Damodhar)
Technical Member

07/02/2017

Signature 6/2/2017

(D.N. Panda)
Judicial Member

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प्रमाणित प्रति / Certified True Copy

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