IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT NO. I

Customs Appeal No. 40176 of 2021

(Arising out of Order-in-Appeal Seaport C.Cus.II Nos. 73-74/2021 dated 19.02.2021 passed by the Commissioner of Customs (Appeals-II), 60, Rajaji Salai, Custom House, Chennai – 600 001)

M/s. Mov and Go Logistics **: Appellant**
2nd Floor, No. 210 (Old NO. 228),
Thambu Chetty Street, Chennai – 600 001

VERSUS

The Commissioner of Customs **: Respondent**
Chennai-IV Commissionerate,
Custom House, No. 60, Rajaji Salai, Chennai – 600 001

WITH

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Custom House, No. 60, Rajaji Salai, Chennai – 600 001

APPEARANCE:

Shri G. Derrick Sam, Advocate for the Appellant

Shri Vikas Jhajharia, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)

FINAL ORDER NOs. 40056-40057 / 2022

DATE OF HEARING: 01.02.2022

DATE OF DECISION: **04.02.2022**

Order :

These appeals are filed by the assessee against the common impugned Order-in-Appeal Seaport C.Cus.II Nos. 73-74/2021 dated 19.02.2021 passed by the Commissioner of Customs (Appeals-II), Chennai.

2. The only challenge in these appeals is the levy of penalty under Section 132 read with Section 117 of the Customs Act, 1962, for an alleged contravention of Section 50(3)(a) ibid.

3. Heard Shri G. Derrick Sam, Learned Advocate for the appellant and Shri Vikas Jhajharia, Learned Representative for the Revenue.

4. I have considered the rival contentions and gone through the orders of the lower authorities.

5. It is the case of the Revenue that on examination of the shipping bills filed online by M/s. Mov and Go Logistics, Customs Broker (appellant herein) on behalf of the exporters, it is found that the appellant had furnished wrong Rotation number for the shipping bills at the time of registration of the goods for Customs examination; that wrong rotation numbers/EGM were furnished for the shipping bill No. 7260046 dated 30.08.2018 and shipping bill No. 7784321 dated 24.09.2018 at the time of Customs examination. Based on the above, Show Cause Notices dated 19.12.2018 were issued to the appellant, proposing to consider the same as a contravention of the provisions of Section 50(3)(a) ibid. and to levy penalty under Section 132 read with Section 117 ibid. for the above contravention.

6. The appellant filed its detailed reply but, however not impressed, the Adjudicating Authority vide Orders-in-Original Nos. 73462/2020 and 73463/2020, both dated 31.01.2020, confirmed the proposals made in the Show

Cause Notices. Against the said Orders-in-Original, the appellant preferred appeals before the First Appellate Authority, who has, vide order impugned herein, upheld the penalty imposed on the appellant. Aggrieved, the appellant has filed the present appeals before this forum.

7. The alleged contravention is to Section 50(3)(a) of the Customs Act, 1962, which is extracted hereinbelow for the sake of convenience:

> *"Section 50. Entry of goods for exportation. —*
>
> *(1) …*
>
> *(2) …*
>
> *(3) The exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely :—*
>
> > *(a) the accuracy and completeness of the information given therein;"*

8. From the very sub-section, it is seen that the same applies to an **exporter** who presents a shipping bill or bill of export under this Section and hence, a Customs House Agent or a Customs Broker cannot be fastened with the penalty if the Revenue finds any wrong quoting, etc., in the presented shipping bill.

9. In view of the above, I am of the clear view that the Customs Broker, who is the appellant before this forum, cannot be penalized for the alleged contravention.

10. Consequently, the impugned order is set aside and the appeals are allowed.

(Order pronounced in the open court on **04.02.2022**)

Sd/-
(P. DINESHA)
MEMBER (JUDICIAL)

Sdd