CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL NEW DELHI.

PRINCIPAL BENCH - COURT NO. II

Customs Appeal No. 50214 of 2019-Cus.

(Arising out of order-in-original No. 69/MK/REVOCATION/ POLICY/2018 dated 19.11.2018 passed by the Commissioner of Customs (Airport & General), New Delhi).

M/s Tanmay Global Logistics **Appellant**
T-7, Vardhman Crown Mall
Sector-19, Dwarka
New Delhi-110077.

VERSUS

Commissioner of Customs (Airport & General) **Respondent**
New Customs House
Near IGI Airport
New Delhi-110037.

APPEARANCE:

Shri Devesh Tripathi, Shri P. Pathak and Shri M.N. Dubey, Advocates for the appellant

Shri V. Pandey, Authorised Representative for the respondent

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. C. L. MAHAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 51636/2019

DATE OF HEARING: 31.05.2019
DATE OF DECISION: 12.12.2019

ANIL CHOUDHARY:

The appellant, M/s Tanmay Global Logistics, CHA firm, is in appeal against the order-in-original dated 19.11.2018 whereby the CHA licence of appellant have been revoked alongwith forfeiture of security deposit of Rs. 5 lakhs.

2. The appellant, CB/CHA firm is a partnership having partners namely Dewang Manesh Shah and Mrs. Madhu Gaur. Another CB – M/s S. M. Wairkar had filed a Bill of Entry No. 7304512 dated 02.11.2016 on behalf of importer – M/s Apollo Enterprises at Nhava Sheva. The Proprietor of M/s Apollo Enterprises is Mr. Shantaram Kajrekar. The goods were shipped in the container No. TGHU 7012910.

3. Revenue on the basis of intelligence that parts of branded LED TV were being imported in the name of M/s Apollo Enterprises (IEC No. 0316933660) without declaring the brand name and actual value and other specifications of the goods in the bill of entry filed for customs clearance. Accordingly, the said CHA or the custom broker were directed to furnish all the relevant import documents. It was revealed that the said bill of entry have been filed as per the instruction of one Shri Samir Shah, Proprietor of M/s Pankit Forwarders (also the cousin of Mr. Dewang Manesh Shah).

4. Further, in search at M/s Pankit Forwarders – import documents pertaining to the said consignment were retrieved alongwith documents for past import of M/s Apollo Enterprises. Additional invoice pertaining to the consignment under investigation was also recovered. It was revealed that the past clearances by M/s Apollo Enterprises were also handled by Shri Samir Shah availing the services of appellant custom broker.

5. As per the Bill of Entry No. 7304512, the goods under import were declared as under:

(a) Speaker with wire for LED TV

(b) Back Cover for LED TV (use for 32”)

(c) PCB with wire for LED TV (use for 32”), and

(d) Accessories for LED TV (Remote Control/ Plastic Holder/ Screw/ Power Cord/ TV Stand/ Manual/ Empty Carton.

6. The corresponding invoice No. N100200908 dated 21.10.2016 issued by M/s Niku Exim International Pte. Ltd. for the said consignment, specified the value of the goods as USD 11,052 and indicated that parts pertained to 32” LED TVs. Whereas, the other invoice (actual) for the same consignment, retrieved from the premises of M/s Pankit Forwarders, indicated that the “PCB with wire” pertained to LED TVs having screen sizes of 32”, 40”, 43”, 48”, 49” & 55”. The scrutiny of the said Bill of Entry dated 02.11.2016 also revealed that during assessment the unit prices of the “PCB with wire” had been enhanced from USD 3 to USD 5.5 and that the unit price of “Back cover for LED TV” had been enhanced from USD 2 to USD 5.

7. In the statement recorded of Shri Samir Shah, Proprietor of M/s Pankit Forwarders, he inter alia stated that he was using the licence of M/s S.M. Wairkar to clear the import consignment of M/s Apollo Enterprises and had facilitated clearance of past seven consignments. He had approached Shri Ashok Purohit, Proprietor of M/s Navrang for the import clearances of parts of LED TV under the name of M/s Apollo Enterprises. He had never met the IEC holder/ Apollo Enterprises and that the actual importers / owner of the goods under import was Shri Ashok Purohit. All payments for clearance services on behalf of M/s Apollo Enterprises were made by Shri Ashok Purohit. Shri Ashok Purohit submitted all the documents regarding the import consignment

and also approved check list. Invoice No. N10020908 dated 21.10.2016 found in his office was initially received from Shri Ashok Purohit which was subsequently substituted by Shri Ashok Purohit with some changes with another invoice bearing same number and date, for the purpose of declaration in the bill of entry.

8. In the statement of Shri Varun Waikar, Manager of M/s S.M. Wairkar CB, he inter alia stated that they had filed the bill of entry No. 7304512 in the name of M/s Apollo Enterprises. The import documents as well as KYC documents were submitted by Shri Samir Shah of M/s Pankit Forwarders. Shri Samir Shah was a long time family acquaintance and thus they have relied upon him and agreed for the clearances, they have not met anyone from M/s Apollo Enterprises nor they have done any KYC check.

9. Further, statement of Shri Dewang Manesh Shah, Partner of M/s Tanmay Global Logistics (Customs Broker firm) was also recorded who inter alia stated that they had cleared six import clearances for M/s Apollo Enterprises consisting of parts of LED TV. They had never met the proprietor of M/s Apollo Enterprises. Shri Samir Shah, Proprietor of M/s Pankit Forwarders was his cousin and all relevant documents including KYC were received from Shri Samir Shah. M/s Apollo Enterprises was the client of Shri Samir Shah and the bill of entry was filed as per his instruction. He was aware that Shri Samir Shah is having CB licence which was lying under suspension since 2012.

10. Shri Shantaram Kajrekar, Prop. of M/s Apollo Enterprises was summoned and his statement was recorded. He inter alia stated that

he had never applied for an IEC. However, he had given copies of PAN Card, Aadhaar Card and photographs to a person named Shri Sanjay Jadhav who had approached him with a promise to open a bank account. It was only on 04.11.2016, that Shri Sanjay Jadhav requested him to meet Shri Samir Shah, when he came to know that an IEC have been issued in the name of his proprietary concern – M/s Apollo Enterprises. In the course of investigation by the DRI he came to know that IEC in the name of M/s Apollo Enterprises have been used by one Shri Ashok Purohit for import, whom he had never met before.

11. Statement of Shri Ashok Purohit, Prop. of M/s Navrang was recorded who inter alia stated that he was engaged in import of airconditioner parts and LED TV panels. He agreed with the statement of Shri Shantaram Kajrekar, prop. of M/s Apollo Enterprises. He was in search of an IEC to be used for his imports, as he wanted to avoid tax liabilities. In August, 2016, he met one Shri Sanjay Jadhav who offered him an IEC in the name of M/s Apollo Enterprises for a sum of Rs.50,000/-. Alongwith the IEC, Shri Sanjay Jadhav had also given him some other documents of M/s Apollo Enterprises like VAT registration certificate, Income tax return and copy of electricity bill for being used as KYC documents. He has given these documents to Shri Samir Shah of M/s Pankit Forwarders whom he had hired for the clearance of his import consignments of parts of LED TV. Although he had his own IEC in the name of M/s Navrang he was purposely using the IEC of M/s Apollo Enterprises to avoid various tax liabilities. He had earlier imported six consignments using the IEC of M/s Apollo Enterprises. One bill of entry No. 7304512 dated 02.11.2016 had been

filed at Nhava Sheva for clearance of parts of LED TV imported from M/s Niku Exim, Singapore being parts of various sizes of TV 32”, 40”, , 43”, 48”, 49” & 55”and directed Shri Samir Shah to declare the goods as parts of LED TV for 32”. Further, the actual values of PCB for 32” is around 25 to 26 USD, for 40” is around 27 to 28 USD, 43” is around 29 to 30 USD, 48” is around 31 to 32 USD and 55” is 32 to 33 USD, these prices can be verified from original invoice which will be provided.

12. Subsequent to his statement dated 04/05.11.2016 Shri Ashok Purohit submitted copy of revised invoices for the consignment imported in the name of M/s Apollo Enterprises. These revised invoices revealed enhanced values for the imported goods and also declared that the imported parts pertain to branded LED TVs. The values declared in the bill of entry were about 1/3rd or 1/4th of the actual value, on comparison of the revised invoice, submitted by Shri Ashok Purohit and the documents accompanying with the bill of entry. Further, the past six consignments during 02.09.2016 to 26.10.2016 were handled by the present appellant – M/s Tanmay Global Logistics.

13. Further, the goods under import under bill of entry No. 7304512 filed through M/s S. M. Wairkar CB, were examined by the officer of DRI, MZU on 26.11.2016 at CFS M/s Preeti Logistics Limited in the presence of Shri Ashok Purohit, Shri Samir Shah and employee of Customs Broker. On examination, the goods were found as follows:

Sr. No.	Description	Quantity (Pcs.)
1	PCBs for various sizes for Sony LED TV	1228
2	Speaker for LED TV	1228 (pairs)

3	Back cover for Sony LED TV 32”	360
4	Back cover for Sony LED TV 40”	620
5	Back cover for Sony LED TV 43”	100
6	Back cover for Sony LED TV 48”	76
7	Back cover for Sony LED TV 49”	22
8	Back cover for Sony LED TV 55”	50
	Total Back cover for Sony LED TV	1228
9	Empty cartons for Sony LED TV 32” (KLV-32R302D)	360
10	Empty cartons for Sony LED TV 40” (KLV-40R352D)	620
11	Empty cartons for Sony LED TV 43” (KDL-43W800C)	100
12	Empty cartons for Sony LED TV 48” (KLV-48W652D)	76
13	Empty cartons for Sony LED TV 49” (KDL-49W750D)	22
14	Empty cartons for Sony LED TV 55” (KLV-55W800C)	50
	Total Empty carton for Sony LED TV	1228
15	Accessories (including Plastic TV Stand, Plastic Holder, Adapter with Power Cord, Remote control, Screws, Battery and Manuals (for Sony LED TV Model Nos. KLV-32-R30@D, KLV-40R352D, KDL-43W800C, KLV-48W652D, KDL-49W750D & KLV-55W800C)	1228

14. The quantity of the goods as per the bill of entry and in the containers were found tallying. However, it was found that the parts declared as parts for 32” LED TV were in fact parts of 32” and other sizes of LED TV of Sony brand namely 40”, 43”, 48”, 49” & 55”. In view of the apparent misdeclaration of the goods, the said consignment under import was seized on 26.11.2016 under the reasonable belief that the goods under import were in contravention of the provisions of the Customs Act, 1962 and liable for confiscation under Section 111 of the Customs Act.

15. Shri Ashok Purohit in view of his admission of misdeclaration, voluntarily made payment of differential duty for all the seven consignments amounting to Rs. 63,48,000/-.

16. It appears to Revenue that Shri Ashok Purohit, Prop. of M/s Navrang and import dealer/ supplier of parts of airconditioner and LED TV have used the IEC code of M/s Apollo Enterprises alongwith the KYC documents received from one Shri Sanjay Jadhav, and have resorted to misdeclaration of the value and also description in some instances, for avoiding payment of appropriate custom duty. The actual IEC holder Shri Shantaram Kajrekar of M/s Apollo Enterprises was unaware of the misuse of his IEC and KYC documents. After importing the goods from overseas supplier Shri Ashok Purohit provided manipulated invoices and documents to Shri Samir Shah of M/s Pankit Forwarders for the purpose of filing bill of entry for clearance of the goods. Such manipulated invoices did not mention the actual specification and value of the goods. Shri Samir Shah filed the bill of entry for six consignment out of seven, using the licence of appellant custom broker – M/s Tanmay Global Logistics and one bill of entry was filed through custom broker M/s S.M. Wairkar. Thus, the past consignments other than the bill of entry No. 7304512 were cleared on the basis of manipulated invoices/ documents without payment of appropriate custom duty. Further, on scrutiny of documents it was revealed that the value of goods under import at the time of assessment (past six consignment) was for unbranded LED TV. The CVD have been levied on the declared RSP. On the basis of statement recorded and the documents retrieved/ submitted during the course of investigation,

corroborated the allegation of mis-declaration and suppression of value of the goods as well as mis-declaration of the description resulting in short levy of duty.

17. It further appears that the appellant Custom Broker as required under the CBLR, 2013 was required to obtain the authorisation from their client by whom they are employed/engaged as CB for transaction of their business or through an employee duly approved by the Deputy/ Assistant Commissioner of Customs. CB is further required to advise his client to comply with the provisions of the Act, further required to exercise due diligence to ascertain the correctness of the information which he imparts to his client and verify antecedent, correctness of IEC and identity of his client and the functioning of his client at the declared address, by using reliable independent and authentic documents, data or information. It further appears that Shri Samir Shah who did not have the custom licence has used the licence of the appellant for filing the bill of entry on behalf of Shri Ashok Purohit. Further, as per the statement of Shri Dewang M. Shah, Partner of the appellant firm, it is evident that M/s Apollo Enterprises was the client of Shri Samir Shah and they have filed the bills of entry as per instruction of Shri Samir Shah. Further, it is evident that the partner of the appellant CHA firm had never met the IEC holder Shri Shantaram Kajrekar, Prop. of M/s Apollo, nor had carried out any KYC check. Thus, it appears that the appellant custom broker and M/s S.M. Wairkar by not causing the mandatory verification of the antecedent, identity and functioning of the IEC holder at the given address, had filed the bill of entry in gross violation of the provisions of CBLR, 2013.

Further, the partner of the appellant firm Shri D. M. Shah was aware that the CHA licence of Shri Samir Shah was suspended but still they filed the bill of entry on the basis of documents received from him, without verification. Thus, there is lack of bonafide, rather indicates malafide on the part of the appellant CHA firm in their filing of bill of entry, by committing various types of acts of commission or omission.

18. Further, a separate show cause notice No. DRI/MZU/CI/INT-112/2016 dated 23.05.2017 have been issued on Shri Ashok Purohit, Prop. of M/s Navrang for treating him as actual importer of the goods with proposal to redetermine the value of the goods and further to demand differential duty of Rs. 78,67,341/- in respect of six bills of entry filed through appellant M/s Tanmay Global Logistics and also for revaluation of the goods under bill of entry No. 7304512 and further to demand differential duty of Rs.11,04,411/- with proposal to appropriate the amount already deposited in both cases.

19. Further, Shri Samir Shah was also called upon as to why penalty should not be imposed under Section 112 and 114AA of the Customs Act and further the present appellant was also required to show cause as to why penalty be not imposed under Section 112 of the Customs Act. Penalty was also proposed on M/s S.M. Wairkar.

20. The aforementioned show cause notice have been relied upon and reference found in the show cause notice dated 25.06.2018 issued to the appellant for alleged violation of Regulation No. 11(a), (d), (e), (f) and (l) of CBLR, 2013, to show cause as to why not their CB licence should not be revoked and further why not the security deposit be

forfeited in whole or part in terms of Regulation 18 read with Regulation 20 of CBLR, 2013 with proposal to further impose penalty under Regulation 22 read with Regulation 20 of CBLR, 2013. Enquiry officer was appointed to enquire, namely Shri Veer Prakash, Assistant Commissioner of Customs, who submitted the inquiry report.

21. Appellant had filed the detailed submission before the enquiry officer on 20.07.2018.

22. The enquiry officer, Shri Veer Prakash submitted his report dated 24.08.2018 with his finding as follows:

> *"In the show cause notice it has been alleged that M/s Tanmay Global Logistics has intentionally violated the provisions of Customs Act, 1962 and CBLR 2013 by involving themselves in modus operandi of evasion of customs duty of nearly 90 lacs (as detailed in para No. 13.2 above).*
>
> *The noticee failed to discharge their duty to verify the KYC norms and other obligations imposed upon them vide CBLR 2013. So it was proposed in the SCN to revoke the CB Licence and to impose penalty under provisions of CBLR 2013. However, the notice has denied the allegations proposed in the SCN.*
>
> *I find that the notice played a major role in evasion of duty through Sh. Samir Shah as explained in the SCN. In reply they tried to explain their innocence. But they allowed to use their licence without verification of KYC norms. This show that they are equally responsible for the lapse. In reply they have admitted their lapse. The relevant portion of their reply is reproduced below:*
>
>> *No customs broker would cover venture to put his entire business in danger by helping a particular importer, however important he may be. In past so many years of our working, we had not violated any provision of CBR 2014 knowingly and with an intention to defraud the revenue. So if any mistake has taken place the same may be consider as honest and inadvertent mistake. In fact we had no previous knowledge of any mis-declaration regarding the said imports and have unknowingly become the pre of situation and so our case deserves for a lenient view.*
>>
>> *In view of the above it is found that the allegations made in the SCN are proved. As regards the lenient view, it is observed that the final decision is to be taken by worthy Commissioner and recommendation of any type is neither in my jurisdiction nor is binding on adjudicating authority and is left on him.*
>>
>> *The allegations made in the SCN are proved and action may be taken as proposed in the SCN".*

23. Upon receipt of the enquiry report and after hearing the appellant and after considering the written submission of the appellant the Commissioner of Customs (Airport and General) have been pleased to revoke the licence alongwith confiscation of the security of Rs. 5 lakhs. Being aggrieved, the appellant is in appeal before this Tribunal on the ground among others that the impugned order is non speaking order as the CB licence have been revoked mechanically on the basis of show cause notice and offence report issued by DRI, as well as enquiry report submitted by the enquiry officer. There is no independent appreciation of the facts, neither appreciation of the conduct of the appellant CB over the last several years. The impugned order is more or less repetition of the show cause notice. The learned Commissioner failed to appreciate that in the facts and circumstances, the appellant have no role in obtaining IEC of M/s Apollo Enterprises or misdeclaration of the goods. The appellant was under bonafide belief that the importer is genuine and goods were declared as per the import documents. Hence, the revocation of the CB licence without any serious fault on their part, is not warranted and wrong. Further, it is evident from the statement recorded of Shri Samir Shah, Shri Ashok Purohit and Shri Shantaram Kajrekar that the appellant was not aware about the illicit procurement and use of the IEC of M/s Apollo Enterprises by Shri Ashok Purohit. Thus, the impugned order holding violation of provisions of Regulation 11(a), 11(d), 11(e), 11(f) and 11(n) of CBLR, 2013 is perverse and none of these provisions are attracted in the facts and circumstances of the case. There is no

allegation of filing the bill of entry, knowingly the same to be misdeclared.

24. As regards the charge of violation of Regulation 11(a) of CBLR, 2013 is concerned, is untenable as appellant before attending to the clearance had taken authorisation from the importer – M/s Apollo Enterprises. Further, the live consignment which was investigated was not filed by the appellant CB. The appellant came to know about the mischievous use of IEC of M/s Apollo enterprises by Shri Ashok Purohit only during the course of investigation. Further, under the facts and circumstances as alleged, there is no case of violation of Regulation 11(d) of CBLR, 2013 made out, which stipulates that the CB shall advise his client to comply with the provisions of the Act and shall bring the matter of non-compliance to the notice of the Customs officer. Further, as regards Regulation 11(c) of CBLR, 2013 is concerned, the provision provides that CB shall exercise due diligence to ascertain correctness of any information which he imparts to his client, with reference to any work related to clearance of cargo. It is submitted that at the time of filing of bill of entry, appellant had obtained all the documents and verified the address from respective website, which was found to be correct and therefore had exercised due diligence. Further, as the clearance work had come through relative of the partner, therefore, the appellant did not suspect any foul play.

25. Further, as regards the allegation of violation of Regulation 11(f) of CBLR, 2013, which provides that CB shall not withhold information

contain in any order, instruction or public notice relating to clearance of cargo from a client, who is entitled to such information. The said allegation is bald as there is no mention of any particular information/ orders/ instruction/ public notice which was not brought to the notice of the custom authority or to his client.

26. Further, as regards the alleged violation under regulation 11(n), which is stipulates that custom broker shall verify the antecedent and correctness of IEC code, identity of his client and existence of his client at the declared address, by using reliable, independent, authentic documents, data or information. It is urged that the said charge has been alleged on the basis of statement of erstwhile partner - Shri Dewang M. Shah, which has been obtained by the investigating officer under threat /coercion and the same cannot be accepted or relied upon. It is further urged that appellant procured all the relevant KYC documents and verified the same online and found the same to be correct. Further, it is admitted fact that the importer IEC holder exists at the address mentioned in the IEC. The only fact is that, the Prop. Shri Shantaram Kajrekar accepted in his statement that he has not obtained the IEC code himself, but the same was obtained by one Shri Sanjay Jadhav in his name, on the basis of documents provided by the said Shri Shantaram Kajrekar. It is further not the case of the Revenue that any of the KYC documents was forged. Thus, there is no violation of the provisions of Regulation 11(n) of the CBLR, 2013. The appellant also relies on the ruling of this Tribunal in **Yogesh Kumar vs. Commr. of Customs, New Delhi (Import & General) -2016 (344) ELT 586 (Tri. Del.)** wherein this Tribunal has held that once

there is a finding by other wing of same Department to the extent that appellant had made efforts to find out the genuinity of exporter by looking into the website, as regards IEC code as also PAN card etc. there is no justifiable reason for the Commissioner to deviate from said finding. It is further urged that Revenue has no case that the said document which stands examined by Customs broker from respective website was not available at such website. Thus, in the absence of any discrepancy detected in exported goods, penalty under Regulation 22 of CBLR, 2013 was set aside. Appellant further relies on the ruling of this Tribunal in **G.N.D. Cargo Movers vs. Commr. of Cus. (General) New Delhi -2017 (357) ELT 1184 (Tri. Del.)** where it is held that in case of mistake by importer there is no reason to conclude that Customs Broker did not exercise due diligence to ascertain correctness of information. Further, reliance is placed on the ruling of this Tribunal in **Aramex India Pvt. Ltd. vs. Commissioner of Customs (Airport), Mumbai -2017 (357) ELT 420 (Tri. Mumbai)** where it has been held that appellant lacked knowledge of alleged conspiracy and offence committed by certain persons, which included some of its employees, with intent to evade any duty for any personal gain.

27. It is further urged that the Ld. Commissioner has failed to appreciate that the appellant is in profession of custom clearance from 2013 and has offices in two stations. Except in the present case, they have not been penalised in any manner by any agency or department. Further, the appellant was not aware of the fraud being committed by Sh. Ashok Purohit in connivance with others. Further, reliance is placed on the ruling of Delhi High Court in **Ashiana Cargo Services vs.**

Commissioner of Customs (I&G) – 2014 (302) ELT 161 (Del.) wherein the Hon'ble Delhi High Court held that the concurrent finding of fact by the Commissioner and this Tribunal, that CHA did not have any knowledge that illegal exports and smuggling of narcotics was effected using G Cards given to employees of another firm, and thus there was no active or passive facilitation by CHA in that sense. Thus, there is no case of any malafide on the part of CHA to such extent that the trust operating between CHA and Customs Authorities was violated, or irretrievably lost for future operation of licence. Revocation of licence for such contravention was unjustified. It is further urged that the learned Commissioner has failed to appreciate that the penalty of revocation of licence alongwith forfeiture of security deposit is contrary to the law laid down by Hon'ble Supreme Court in the matter of **Union of India vs. J. Ahmed** reported at **AIR 1979 SC 1022**, where it is held that every lapse does not constitute misconduct to warrant imposition of penalty. Learned Counsel urges that the learned Commissioner has failed to appreciate the past good conduct of the appellant and only for the minor error on their part, the punishment imposed is very severe rendering employees of the appellant jobless. Thus, the same is too harsh and contrary to the doctrine of proportionality. Learned Counsel further urges that Ms.Madhu Gaur obtained the CHA licence in the year 2013 and thereafter entered in partnership with Shri Dewang M. Shah who was managing Mumbai office and handling the clearances. After this incidence, Ms. Madhu Gaur dissolved the partnership in the year 2016, and is now the Prop. of M/s Tanmay Global Logistic. Further, it is urged that Ms. Madhu Gaur unfortunately became widow in the year 2008 and is having three school going children to be cared and is facing grave hardship and difficulty. Learned Counsel further urges that for the act of alleged omission by the partner Shri Dewang M. Shah, the appellant CHA should not be subjected to such severe and disproportionate punishment and accordingly prayed for relief. He further relies on the ruling of Tribunal reported at **2017 (358) ELT 1200 (Tri. Mum.)**.

28. Heard the learned Authorised Representative for the Revenue who have relied upon the findings in the impugned order. Further urges that in the facts and circumstances, the appellant firm have been performing their work as a CHA negligently. The omission in taking normal care in receiving instructions and documents from the importer, has resulted in evasion of custom duty. Accordingly, he urges for dismissal of the appeal.

29. Having considered the rival contentions, we find that there is no case of connivance of the appellant CHA with the actual importer of the goods namely Shri Ashok Purohit. There is no allegation by the Revenue that the appellant CHA received any extra remuneration, than the normal remuneration for filing the bill of entry under dispute. The appellant CB /CHA have erred in not receiving the KYC documents directly from the hands of the IEC holder - Shri Shantaram Kajrekar. Further, as the documents were received through Shri Samir Shah relative of partner, there was an element of trust. Thus, there is some element of inadvertance on the part of the appellant-CHA. Under the

circumstances, there is no case of malafidely filing the bill of entry under collusion and /or connivance, with the said Shri Ashok Purohit or Shri Samir Shah. In this view of the matter, we find that the punishment of revocation is too harsh and disproportionate. Accordingly, we allow this appeal in part and set aside the order of revocation. So far as the forfeiture of security deposit is concerned, the same is reduced to Rs. 1,00,000/- (Rupees One lakh only).

30. We further direct the respondent Commissioner to restore the CB license No.R-60/Del/CUS/2016 (PAN No. AAJFT8818L) within a period of one week from the date the appellant deposits Rs. 1,00,000/- towards security deposit under intimation to him. The period of CB licence of appellant shall be extended for the period it remained in revocation (i.e. from the date of impugned order, till the date of restoration). Thus, the appeal stands allowed in part as stated above.

(Pronounced on 12.12.2019)

(Anil Choudhary)
Member (Judicial)

(C. L. Mahar)
Member (Technical)

Pant