

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066
CUSTOMS APPEAL BRANCH**

Dated: 18/03/2015

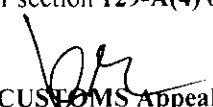
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. C/A/50626/2015-CU[DB] dated 11/03/2015

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 129-A(4) of the Customs Act, 1962.


Asstt. Registrar(CUSTOMS Appeal Branch)

Application	Appeal	Name and Address of Appellant
1	C/COD/61848/2013, C/60639/2013 C/Stay/61847/2013, C/MISC/55580/2014	RAJENDRA M PUROHIT 4&5, NEAR TAJ HARI MAHAL, JODHPUR-RAJASTHAN. 342001

Name and Address of
Respondent

2	C.C.-Jodhpur JODHPUR HQRS...NEW CENTRAL REVENUE BUILDING, STATUE CIRCLE...C SCHEME, JODHPUR-
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Copy To

3 Advocate(s) / Consultant(s):

**Piyush Kumar, Adv
B-25, Lajpat Nagar - III,
New Delhi**

4 Additional Party's Name & Address :

5 Bar Association, CESTAT, Delhi

6 Director Publications, Customs, Excise. I.P. Estate, Delhi

7 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

8 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

9 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

10 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15

11 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

12 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 38

14 C.D.R. 15 Office Copy 16 Guard File


Asstt. Registrar(CUSTOMS Appeal Branch)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. II**

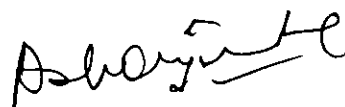
Appeal No. C/60639/2013-CU(DB)

[Arising out of Order-in-Appeal No. 11/2013 dated 11.07.2013 by the Commissioner of Customs (Appeals), Jodhpur].

For approval and signature:

Hon'ble Mr Ashok Jindal, Member (Judicial)

Hon'ble Shri R.K. Singh, Member (Technical)



1	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3	Whether Their Lordships wish to see the fair copy of the Order?	
4	Whether Order is to be circulated to the Departmental authorities?	

Shri Rajendra M Purohit

....Appellants

Vs.

C.C. Jodhpur

....Respondent

Appearance:

Shri Piyush Kumar, Advocate for the Appellants
Shri B.B. Sharma, DR for the Respondent

CORAM:

Hon'ble Shri Ashok Jindal, Member (Judicial)

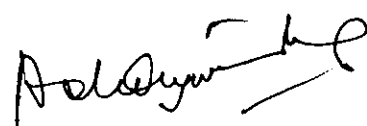
Hon'ble Shri R.K. Singh, Member (Technical)

Date of Hearing: 11.03.2015

FINAL ORDER NO. 50626 /2015-CU(DB)

Per Ashok Jindal:

The appellant is in appeal against the impugned order dated 11.7.2013 revoking their CHA license no. 02/CHALR/2004 dated 11.02.2004 and forfeiture of security deposit of Rs.11,000/- and invoking penalty of Rs. 5,000/- under CHALR, 2004.



2. The facts of the case are that on receiving information on 09.05.2011 a container was stuffing in the cargo at ICD RAJSICO, Jodhpur. The container was interpreted and found that in the guise of handicraft goods, used goods were being stuffed in the container. At the time of stuffing Shri Mohit Charan was the employee of the appellant was present and Shri Ashok Charan filed the shipping bill and other relevant papers. As a mis-declaration of the goods were found, therefore, proceedings against the appellant was initiated and their CHA license was suspended on 13.08.2010. Thereafter proceedings under Regulation 22 of the CHALR, 2004 were initiated against appellant and it was alleged that appellant has violated regulation 13(b), (d), (e) and 19(8) of the CHAL Regulations, 2004. Consequently, after completion of proceedings, their CHA license was revoked. Security deposit of Rs.11,000/- was also forfeited and penalty under Section 117 of the Customs Act 1962 of Rs.5000/- was also imposed. Aggrieved from the said order, the appellant is before us.

3. The Ld. Counsel for the appellant submits that there are some lapses on the part of the appellant themselves. As they were required to supervise and train their employees but there was no knowledge of the appellant to stuff the goods declared by the exporter. To support this contention, he relied on the proceedings initiated against the appellant under Customs Act wherein appellant has been discharged by Order in Appeal no.15-16(OPD) CUS/JPR-II/13 dated 30.09.013 by the Ld. Commissioner (A) holding that

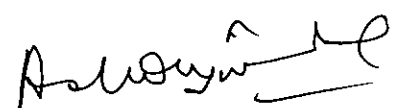


there was no mensrea of the appellant. He further submits that as the appellant is out of business for more than 3.5 years, therefore, for the lapse admitted by the appellant, the punishment is already suffered by him. In these circumstances it is prayed that the impugned order is to be modified to the extent that order of revocation of their CHA license be withdrawn.

4. On the other hand, Ld. AR supported the impugned order and submits that it is clear from the facts of the case that their were lapses on the part of the appellant and they were not having supervision over their employees and therefore they have violated Regulation 13(b), (d), (e) and 19(8) of CHAL Regulations, 2004. Therefore, the charges against the appellant have been proved by the Ld. Adjudicating Authority in the impugned order after going into the details of the case. Therefore, impugned order is to be upheld.

5. Heard the parties. Considered the submissions.

6. We do agree with the contention of the Ld. AR that there were some lapses on the part of the appellant and for that appellant is liable to be penalized. But we find that appellant has already suffered more than 3.5 years and is not in business since 13.10.2011. Therefore, punishment suffered by the appellant is sufficient in the facts and circumstances of the case. Consequently, impugned order is modified to the extent that order of revocation of CHA License No. 02/CHALR/2004 dated 11.02.2004 is set aside.



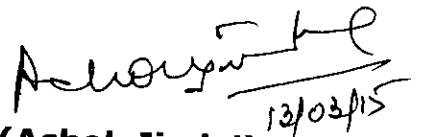
7. With these terms the CHA license of the appellant becomes operative with immediate effect. Appeal is disposed off in the above terms.

(Dictated and pronounced in the open court)



(R.K.Singh)
Member (Technical)

Bhanu



(Ashok Jindal)
Member (Judicial)