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

Dated: **01/01/2016**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **C/A/53827/2015-CU[DB]** dated **23/11/2015**

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/Stay/52141/2015	C/50890/2015	**Balraj Kumar** E-62, 3rd Floor, Lajpat Naga Part-2 CENTRAL NEW DELHI
		Name and Address of Respondent
2		C.C.-New Delhi(air Cargo Export) NEW CUSTOM HOUSE, NEW DELHI,DELHI-

Copy To
3Advocate(s) / Consultant(s):

GST Consultancy and Lega! Services
D-40, 1st floor, South Extenstion Part-I,New Delhi-110049

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 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082
15 C.D.R. **16** Office Copy **17** Guard File

Asstt. Registrar(CUSTOMS Appeal Branch)

DB-D

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/decision: 23.12.2015

Stay Application No.52141 of 2015 and Customs Appeal No.50890 of 2015

Arising out of the order in original No.26/NK/POLICY/2015 dated 27.2.2015 passed by the Commissioner of Customs (Import & General), New Delhi.

For approval and signature:

Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. R.K. Singh, Technical Member

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 26 of the CESTAT (Procedure) Rules, 1982?	
2	Whether it should be released under Rule 26 of 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?	

Balraj Kumar .. Appellants

Vs.

C.C.(Import & General), New Delhi .... Respondent

Appearance:

Present Shri B.K. Singh with Shri Garvit Chauhan, Advocates for the appellants
Present Shri Ranjan Khanna, A.R for respondent

Coram: Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. R.K. Singh, Technical Member

Final Order No. 53827/2015

Per Justice G. Raghuram:

Heard Shri B.K. Singh , ld. Counsel for the appellant and Shri Ranjan Khanna, ld. A.R. representing the respondent/Revenue.

2. The appellant is a licenced Customs Broker. He is aggrieved by the order dated 27.2.2015 passed by the ld. Commissioner of Customs (General), New Custom House, New Delhi. The impugned order revoked appellant's Customs Broker licence and forfeited security deposit of Rs.75,000/- furnished by him.

2. Ld. Counsel for the appellant challenges the impugned order on several grounds including that the order is invalid for transgression of time limits prescribed in Regulation 20 of the Customs Broker Licensing Regulations, 2013. After hearing the respective , since the challenge to the impugned order is primarily on the ground of of violation of time limit prescribed in Regulation 20, appears to have been made out , we refrain from going into other contentions urged on behalf of the appellants, viz., challenge to the impugned order, on merits of the decision, to revoke the licence and forfeit the deposit.

3. The facts in so far as are relevant and material for purposes of considering whether the limit of time prescribed under Regulation 20 were transgressed , are noted .

4. In para 2 of the show cause notice dated 21.7.2014, *qua* which proceedings were initiated against the appellant culminating in the impugned order, it is clearly asserted that proceedings were initiated for revocation of the licence on the basis of the show cause notice issued by the Additional Director General , DRI, Mumbai Zonal Unit dated 24.12.2013, received by the respondent on 24.2.2014 along with the enclosure to the letter dated 13.2.2014 addressed by the authority which had issued the show cause notice dated 24.12.2013. This constitutes information as to the alleged delinquency of the appellant, the offence report.

4. Appellant's licence was suspended on 18.3.2014 , a fact no longer relevant, since by the impugned order, the appellant's licence stands revoked. Regulation 20(2) mandates that a notice setting out

grounds on which it is proposed to revoke the Customs Broker licence should be issued within 90 days from the date of receipt of the offence report. However, the show cause notice dated 21.7.2014 was issued beyond the period of 90 days from 24.12.2014, the date the offence report was received by the respondent. Regulation 20(5) mandates that At *the conclusion of the inquiry, the enquiry authority shall prepare a report of the inquiry and after recording his finding thereon submit the report within a period of 90 days from the date of issue of a notice under Regulation 20*(1). However, dthe inquiry report was submitted on 27.11.2014, clearly beyond the period prescribed in Regulation 20(5). Regulation 20(7) ordains that the *Commissioner of Customs shall, after considering the report of the inquiry and the representation thereon, if any, made by the Customs Broker, pass such orders as he deems fit either revoking the suspension of the licence or revoking the licence of the Customs Broker or imposing penalty not exceeding the amount of mention in Regulation 22 within 90 days from the date of submission of the report by the enquiry authority under Regulation 20(5).* The impugned order was passed on 27.2.2015, beyond the period of 90 days from the date of enquiry report.

6. The Hon'ble Delhi High in ***Shankar Clearing & Forwarding vs. C.C. (Import & General)*** - 2012 (283) ELT 349 (Del.), the Hon'ble Madras High Court in ***Sanco Trans Ld. v. C.C., Sea Port/Imports, Chennai - 2015 (322) ELT 170 (Mad.),*** this Tribunal in ***Rajeev Mayaer vs. C.C. (Import & Genral), New Delhi*** - 2014 (308) ELT 146 (Tri-Del.), in ***Om Freight Forwarders Pvt. Ltd. vs. C.C. (General), Mumbai*** - 2014 (311) ELT 793 (Tri-Mumbai) and in ***Sri Radhakrishna Shipping (P) Ltd. vs. C.C. (General), Mumbai*** - 2015 (318) ELT 660 (Tri-Mumbai) have uniformly held that if any of the intermediary steps such as such issue

of show cause notice , drawing up of an inquiry report, or passing of a revocation order is beyond the periods mandated under Regulation 20 of the 2013 Licensing Regulations, corresponding to Regulation 22 of the Customs House Agents Licensing Regulation, 2004 as amended in 2010, the eventual order of revocation would be invalid.

7. For aforesaid reasons and on the preceding analyses, the impugned order cannot be sustained and is accordingly quashed. The appeal is allowed but in the circumstances without costs.

(Justice G. Raghuram)
President

(R.K. Singh)
Technical Member

scd/