FAX : 011-26108426

REGISTERED / AD

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

Dated: 20/01/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. C/A/53912/2015-CU[DB] dated 28/12/2015

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.**

Deputy/Asstt. Registrar (CUSTOMS Appeal Branch)

Application	Appeal	Name and Address of Appellant
1	C/51879/2015	**P S B Logistics Pvt Ltd** L-181, Street No. 07, Mahipalpur Extension NEW DELHI-110037
		Name and Address of Respondent
2		C.C.-New Delhi(import & General) NEW CUSTOM HOUSE,NEAR IGI AIRPORT, NEW DELHI,

Copy To

3Advocate(s) Consultant(s):

Prabhat Kumar
B-51(BASEMENT),
SARVODAYA ENCLAVE
NEAR MOTHER
INTERNATIONAL SCHOOL
NEW DELHI
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 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082
15 C.D.R. 16 Office Copy 17 Guard File

20/01/16

Deputy/Asstt. Registrar(CUSTOMS Appeal Branch)

DB-D

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
R.K. PURAM, WEST BLOCK NO. 2, NEW DELHI-110066
COURT NO. I

Date of hearing: 28/12/2015

Customs Stay Application No. 51204/2015 of
Customs Appeal No. C /51879/2015-CU[DB]

[Arising out of Order-in-Appeal No. 30/NK/Policy/2015 dated 4.3.2015 passed by the Commissioner of Customs (General) New Custom House, New Delhi]

For Approval and Signature:

Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Shri B. Ravichandran, Member (Technical)

1.	Whether Press Reporter may be allowed to see the Order for Publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
3.	Whether their Lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	Yes

M/s. PSB Logistics Pvt. Ltd. **Appellant**

Vs.

Commissioner of Customs
(General) New Customs House,
New Delhi **Respondent**

Appearance: Dr. Prabhat Kumar, Advocate for the appellant.
Shri R. K. Grover, DR for the respondent

Coram: Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order. No. 53912/2015

Per: B. Ravichandran

The appellant is a CHA and this appeal is against the order dated 4/3/2015 issued by Commissioner of Customs General NCH, New Delhi. Today, the stay application filed by the appellant came up for hearing. The main appeal itself is taken up for disposal on consent, after waiving the requirement of pre-deposit to admit the appeal.

2. Proceedings were initiated against the appellant by issue of show cause notice dated 6/1/2012 for contravention of various provisions of Regulations 13 of Customs House Agent Licence Regulation 2004. The Original Authority vide his order dated 4/3/2015 held that the offence committed by the appellant cannot be considered to be so grave as to warrant revocation of their licence. Further, he held that penal action is called for and accordingly ordered the for-feiture of security deposit of Rs. 50,000/- of the appellant. Aggrieved by this order, the appellant filed this appeal.

3. Ld. Counsel Shri, Prabhat Kumar, for the applicant, submitted that once the Original Authority held that revocation of licence is not warranted, he cannot order forfeiture of the security deposit. He relied on the Tribunal's decision in the case of V.B. Bhatia and Co. reported in 2006 (200) ELT 150 (Tri-Mumbai).

4. Ld. AR Shri R.K. Grover, for the respondent submitted that in terms of Regulations 20 (1) read with Regulations 22 of CHALR 2004, the Commissioner has powers to forfeit the security deposit. It is not necessary that such forfeiture should be ordered only when the licence is revoked.

5. We have heard both the sides and examined appeal records.

6. We find that similar matter came up for decision before the Tribunal in the case of V.B. Bhatia and Company (supra) wherein the Tribunal held that when revocation cannot be upheld on merits, forfeiture alone cannot be upheld. We find that the case was taken up to Bombay High Court by the Revenue and the Hon'ble Bombay High Court dismissed the Customs (Appeal) upholding the order of the Tribunal [2008 (224) ELT A97 Bombay].

7. Having considered the above decision of the Tribunal, we find that the impugned order forfeiture of security deposit without revocation of the licence is not sustainable.

8. Accordingly, we allow the appeal with consequential relief, if any.

(Justice G Raghuram)
President

(B. Ravichandran) 13/1/16.
Member (Technical)

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