CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
New Delhi

PRINCIPAL BENCH – COURT NO.1

Customs Appeal No. 54464 Of 2014

[Arising out of Order-in-Original No. 28/NLB/Commr/2014 dated 05.05.2014 passed by the Commissioner of Customs (Import & General), New Delhi]

Amit Mahajan **: Appellant**
T-12/202, Valley View Estate
Gurgaon Faridabad High way
Gurgaon

Versus

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

APPEARANCE:
None for the Appellant
Shri Rakesh Kumar, Authorized Representative for the Respondent

CORAM :

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

FINAL ORDER No. 50394/2025

Date of Hearing:04.03.2025

Date of Decision:04.03.2025

JUSTICE DILIP GUPTA

The appellant, Manager of M/s Alliance Strategies Limited, has filed this appeal to assail the order dated 05.05.2014 passed by the Commissioner of Customs (Import & General) that imposes a penalty of Rs. 2.00 lakhs upon the appellant under section 112 of the Customs Act, 1962[1] and a penalty of Rs. 2.00 lakhs under section 114AA of the Customs Act.

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1 **the Customs Act**

2. The Office has reported that notice intimating the date on which the appeal would be heard that was sent to the appellant and also to the learned counsel appearing for the appellant on 05.07.2022 was served upon the learned counsel for the appellant on 06.07.2022. Case has been called out, but no one has appeared on behalf of the appellant. The order sheet also reveals that the learned counsel for the appellant had appeared before the Tribunal on 30.05.2023, on which date the matter was adjourned because the issue involved related to the competence of the officer issuing the show cause notice, which issue was pending consideration before the Supreme Court. On 23.12.2024 when the matter was last listed after the decision of the Supreme Court, the Bench adjourned the matter to 04.03.2025 but made it clear that the appeal may be decided on merits even if the appellant does not appear. In view of the order dated 23.12.2024, it is considered appropriate decide the appeal, after hearing the learned authorized representative appearing for the department.

3. The impugned order dated 05.05.2024 passed by the Commissioner notices that the issue that needed to be decided was whether the goods that were imported required WPC License and whether in the absence of this license, the goods could be confiscated.

4. A finding has been recorded that the impugned goods did require WPC License. A finding has also been recorded that they were either imported under a forged WPC License or were imported without any WPC import License. The relevant observations:-

> "39.11. Thus, from the forgoing paras, it is clear that the above mentioned equipment / apparatus / items classified under CTH 84145190, 84213990, 85044090, 85366190,

> 85437099, 85444292, 85444992 and 90304000 at the time of import also qualify as "Wireless Telegraphy Apparatus" and could only be imported under a valid WPC Import licence. Since the equipment / apparatus / items Imported under the B/E No. 222730, dated 17/9/2008 were either imported under forged WPC import licence or imported without any WPC Import licence, the entire equipment / apparatus / items imported under B/E No. 222730, dated 17/9/2008, are liable for confiscation under Section 111 (d) and (m) of the Customs Act, 1962 as the import was an illegal Import in terms of Section 11 A (a) of the Customs Act, 1962 as discussed above."

5. In regard to the imposition of penalty against the appellant, the impugned order records the following finding:-

> "42.7 Thus in view of above, it is clear that M/s Alliance Startegies Limited; Shri Ashok Gupta, Chairman; Sh. Sanjay Sachdeva, CEO; Sh. Amit Mahajan, Ex-Manager Business Development; Sh. Jaspal Singh Chaudhary, Manager and Ms Anuradaha Diwan of M/s Alliance Strategies Ltd., New Delhi had entered into a conspiracy to forge the WPC Import licences for monetary consideration and projecting the efficiency of M/s Alliance Strategies Ltd. in providing services to their clients by supplying the WPC Import licences purported to had been issued by DoT within a short span of time compared to their competitors in the trade. The forged WPC Import licences were entirely prepared by them through forgery and were typed by Shri Jaspal Singh Chaudhary and Ms Anuradha Diwan on the behest / directions of Shri Ashok Gupta, Chairman and Sanjay Sachdeva, CEO of M/s ASL. Shri Sanjay Sachdeva and Shri Jaspal Singh Chaudhary in their respective statements tendered under Section 108 of the Customs Act, 1962 had admitted that such forged WPC import licences were signed by Shri Jaspal Singh Chaudhary on the behest/directions of Shri Ashok Gupta and Shri Sanjay Sachdeva. The examination of the laptop used by Sh. Jaspal Singh Chaudhary and Ms Anuradha Diwan also resulted in retrieval of documents which

> contained the WPC Import licences purported to be issued by DoT. Sh. Sanjay Sachdeva, was looking after the day to day affairs of the noticee no.2 and two rubber stamps were also recovered from his cabin which were used for forging the WPC Import licences on his directions. The WPC Import licences were also forged on the directions of Sh. Ashok Gupta who was Chairman of M/s ASL. **Sh. Amit Mahajan, who was looking after the Customs clearance of the imported goods was aware of the requirement of WPC Import licences for the import of "Apparatus for Wireless Telegraphy" and was also aware about the forgery made by Noticee No.2. Noticee No.2 was the actual beneficiary of the above Illegal activities.** M/s Alliance, Shri Ashok Gupta, Chairman, Sanjay Sachdeva, CEO, **Sh. Amit Mahajan (Ex-Manager Business Development)**, Sh. Jaspal Singh Chaudhary and Ms Anuradaha Diwan of M/s Alliance Strategies Ltd., New Delhi had committed an offence by forging the WPC import licences which had rendered the goods Imported by M/s Aricent Technologles (Holdings) Ltd., Gurgaon (Haryana) under the aforesaid three Bill of Entries liable to confiscation under Section 111 (d) & 111 (m) of the Customs Act, 1962 and they are therefore, **liable for penal action under Section 112 and 114AA of the Customs Act, 1962."**

6. Learned authorized representative appearing for the department has placed reliance upon a decision of this Tribunal in **Shri Chinta Haran Ojha, CHA & Others** versus **Principal Commissioner of Customs**[2] to contend that obtaining a WPC License for the import of goods was necessary.

7. It is not possible to accept the contention that has been raised in the grounds of appeal that the finding recorded by the Commissioner is without any evidence. The Commissioner has meticulously examined the evidence and has recorded a categorical

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finding of fact that either WPC Licenses were not produced and the WPC Licenses that were produced were forged. This finding has not been effectively contraverted. Fraud vitiates everything, and therefore, no benefit can accrue to the appellant.

8. There is, therefore, no merit in this appeal. It is accordingly dismissed.

(Order dictated and pronounced in the open Court)

(JUSTICE DILIP GUPTA)
PRESIDENT

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

G.Y.