

GRAM : CEGCANAL

REGISTERED/A.D

THE CUSTOMS, EXCISE & GOLD (CONTROL) APPELLATE TRIBUNAL,

West Block No. 2, R.K. Puram, New Delhi - 110066.

BENCH NB(SM)

Appeal No. C/33/00-NB(SM)

Dated: 5-1-2001

CEGAT  
NEW DELHI  
To,

Shri Narinder Singh

In the matter of :

Shri Narinder Singh

Appellant

vs.

C.C. New Delhi

Respondent

I am directed to transmit herewith a certified copy of Final Order No. N/26/2001/NB(SM)  
Dated: 4-1-2001 passed by the Tribunal under Section 35-C(1) of Central Excise & Salt Act, 1944/Section 129 (B) of the Customs, Act, 1962.

Copy to :

1. ICD Tuglakabad  
CC New Delhi
2. EGE / CC / (Appeal) New Delhi
3. Chief Commissioner of Central Excise / Customs. New Delhi
4. Adv. / Consult. Shri Sudhir Malhotra, Adv.,  
13-R, Hukam chand colony  
Near Dav collage, Jalandhar (PB)
5. S.D.R
6. JCDR
7. Bar Association, CEGAT, New Delhi
8. Library, CEGAT, New Delhi
9. Director (Review), C.B.E.C. North Block, New Delhi
10. Guard File.
11. M/s Deeparchic Publications, M-93, Marg-46, Saket, New Delhi.
12. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah Marg, opp. Sachdeva P.T. College of  
Defence Colony, New Delhi-110003
13. M/s Lex Site Com. Ltd., Mumbai
14. Office Copy
15. M/s Cen-cus publication.

Asstt. Registrar  
NB(SM)

Asstt. Registrar

**In the Custom, Excise & Gold (Control) Appellate Tribunal  
New Delhi**

APPEAL NO. C/33/00-NB (SM) OF 19 (.....)

ARISING OUT OF ORDER IN ORIGINAL/~~XXXXXX~~ NO.

~~BKG/CC/ICD/TKD/61/99~~..... DATED 29.10.99

PASSED BY CC, New Delhi.....

Date of decision 6.11.2000.....

..... SHRI. NARINDER. SINGH..... APPELLANT (S)

Represented by Sh./~~Smtx.~~ Smtx. Sudhir. Malhotra, Adv.....

**VERSUS**

..... CC, New Delhi..... RESPONDENT (S)

Represented by Sh./~~Smtx.~~ Smtx. S. Puskarana, JDR.....

**CORAM :**

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To be referred to the Reporter or not?  
FINAL ORDER NO. A/26/2001/NB (S/m)

Per...G.R.SHARMA.....

The appellant has filed this appeal against  
imposition of penalty on him.

2. The facts of the case in brief are that the Customs Authorities had information that M/s. Bajaj Machine Tools were fraudulantly claiming huge amount of drawback by exporting cheap 'cst iron drills' by misdeclaring the same as "high speed Steel" for machine drills. A consignment was intercepted by Bombay Customs, the container was found to contain 600 cartons containing 1796 pcs of identical metal drills. The samples were taken for examination. The second container was called back from Dubai. On examination

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600 cartons each containing 3 pcs of identical metal drills was detained. Representative samples were drawn and sent for test. M/s. Geo Chem Lab after analysis of the samples of the goods contained in these containers were found to be samples of cast iron. The goods were, therefore, seized as they were liable to confiscation. The statement of the various people were recorded. Investigations revealed that M/s. Bajaj Machine Tools had earlier exported one consignment of the same item on 14.8.95 and claimed a drawback amount of Rs.10,77,930/-. This shipping bill was filed through M/s. Dynamic Travels & Cargo (P) Limited. Shri Roy Sen, Director of this firm stated that the shipping bill dt.14.8.95 was filed by Shri Anil Sharma of M/s. Amity Freight Movers who worked under authorisation of their company. Shri Anil Sharma in his statement stated that one Shri Narinder Singh had approached his Ludhiana office for export of HSS Tools by M/s. Bajaj Machine Tools. He gave Shri Narender Singh's address as C-190, Phase-VI, Focal point, Ludhiana and his telephone number. Further enquiry revealed that the drawback cheque pertaining to export under shipping bill dt.14.8.95 was deposited in the bank account No.12071 of M/s. Bajaj Machine Tools at the Union Bank of India, Nehru Place, New Delhi. This bank account was introduced by Shri Naveen Sharma of RNC Freight Movers. The bank confirmed that Shri Naveen Sharma had visited the bank personally to introduce the bank account of M/s. Bajaj Machine Tools, and that the signatures and photo of Shri Ashok Kumar <sup>were attested</sup> by the bank <sup>branch</sup> manager. The statement of Shri Narinder Singh was also recorded but he denied all the allegations. It appeared that S/Shri Narinder Singh, Vareen Sharma and Naveen Sharma were main persons behind the firm M/s. Bajaj Machine; that Shri Ashok appeared to be only a concerned person for fraud. Shri Naveen Sharma had stated that profit of shipment under drawback claim was to be equally shared amongst S/Shri Ashok Kumar, Narender Singh and by himself; that Shri Narender Singh was to help in a clearance of export -

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consignment of drawback claim; that the profit of that service was to be shared as above. Shri Narender Singh was to share the profit for clearance of the goods through Customs and getting drawback consignment. A SCN was issued to all concerned persons asking them to explain as to why the seized goods should not be confiscated and why a penalty should not be imposed on them.

*Narender Singh*

3. Arguing the case for the appellant, Shri Sudhir Malhotra, ld. Advocate submits that the appellant had not committed any crime. He submits that the appellant had no role in either misdeclaring the goods or claiming drawback. He submits that the role of the appellant has not been clearly brought out and, therefore imposition of penalty was not warranted inasmuch as he had neither procured the goods nor presented the documents nor cleared them from the Customs. He, therefore prays that the order imposing penalty on the appellant may be set aside.

4. Shri S. Puskarna, ld. JDR submits that the appellant was an instrument in organising the racket and claiming higher drawback by misdeclaring the description of the goods. He submits that ~~thus~~ <sup>examine</sup> the position becomes clear when we ~~go into~~ <sup>go into</sup> the statement of various persons involved in the case. He submits that looking to the fact that the appellant was a concerned <sup>person</sup> with the goods at each stage, therefore, the penalty was warranted and the quantum of penalty was justifiable looking to the amount of drawback claimed.

5. I have heard the rival submissions. I have perused the records. I find that Shri Narender Singh was an instrument at each stage right from getting an order of opening account and creating firm for export and getting the matter through drawback etc. Thus, in view of the fact that he was involved in claiming higher amount of drawback

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by misdeclaring the goods. I hold that the penalty was  
imposable. However, looking to the fact that he was one of  
the beneficiary, the quantum of penalty was very high. In  
the circumstances, the penalty is reduced to Rs.1 lakh.  
Appeal is disposed of in the above terms.

(G.R.SHARMA)  
MEMBER(T)

mk dt.4.1.2001