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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

Appeal No. C/285 /2011 - CU[DB]

Date 30/11/2011

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S TIME CARGO & TRAVEL
50, COMMUNITY CENTRE, MEZANINE FLOOR,
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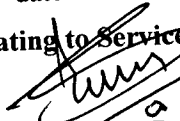
Appellant

Vs
Respondent

C.C. NEW DELHI (IMPORT & GENERAL)

2011 CU[DB] dated 29.11.11

I am directed to transmit herewith a certified copy of **Final order No.C/506/**
passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**


Assistant Registrar

(Customs Appeal Branch)

Copy to :

1. Respondent

C.C. NEW DELHI (IMPORT & GENERAL)
NEW CUSTOM HOUSE, NEAR I.G.I.
AIRPORT, NEW DELHI 110037.

2. Adv. / Consult

MR.K.KUMAR,ADV

15-B, DDA (MIG) FLATS,
RAJOURI GARDEN, NEW DELHI - 15.

3. C.D.R

4. Bar association. CESTAT. New Delhi

5. Director Publications. Customs, Excise. I.P. Estate. New Delhi

6. M/s Centax Publications Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -

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

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

9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,
Ahmedabad-15

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

11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road,
Vasant Kunj, New Delhi - 110070

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Assistant Registrar

(Customs Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
BENCH-DB

Customs Appeal No.C/285/2011

M/s.Time Cargo & Travels

...Appellant

Vs.

C.C. Delhi

... Respondent

Present for the Appellant : Shri K. Kumar, Advocate
Present for the Respondent : K.P. Singh, D.R.

**Coram: HON'BLE MR.D.N.PANDA, JUDICIAL MEMBER
HON'BLE MR. MATHEW JOHN, TECHNICAL MEMBER**

Date of decision/Hearing: 28.11.2011

Final **ORDER NO. C/506/11 DATED: 29.11.11**

PER: D.N.PANDA

A short question involved in this appeal is whether Shri Anil Sharma who was qualified to be a licensee under CHALR 1984 shall cease to be so upon retirement of the partner Shri Harinder Pratap Singh w.e.f. 7.10.2010.

2. Ld. Counsel submits that Shri Anil Sharma was qualified under law to be a Licensee and does not cease to be so after 7.10.2010 ^{i.e.} after retirement of Shri Harinder Pratap Singh. But the authority by the impugned order questioned the

appellant's eligibility under CHALR 2004 baselessly and did not allow him to operate as a CHA which is contrary to law.

3. On the other hand, Id. DR submits that the authority below has passed appropriate order.

4.1 We have perused para 2 & 3 of the impugned order. Consequent upon retirement of Shri Harinder Pratap Singh on 7.10.2010 intimation was given to the Department on 8.10.2010 in that regard. It is borne by record that Shri Anil Sharma was a licensee under CHALR 1984.

4.2 Perusal of regulation 3 of CHALA 2004 throws light that a natural person who is qualified to be a licensee appearing the examination in that behalf and qualifying therein is considered to be a CHA Licensee in terms of regulation 9 of CHALR 2004. Such a legal proposition does not oust the appellant from the purview of law to be recognised as CHA licensee who was recognised by 1984 Regulations aforesaid. *In fact under Regulation 15, the appellant is specifically ~~not~~ allowed to continue his business.*

4.3 There is nothing contrary on record to show that Shri Anil Sharma is incompetent under law of CHAALR 2004. Record also does not reveal as to issuance of any show cause notice questioning his eligibility. Therefore, we do not find any incompetency of the present appellant to continue to be a CHA

licensee. Once the eligibility or competency to be a licensee is not found to be contrary to law, the appellant continues to be a licensee as CHA.

4.4 The authority below is therefore directed to restore licence of the appellant with immediate effect unless otherwise warranted by law to question his incompetence which is not borne by record before us. If he is incompetent, then decision in accordance with law may be taken without depriving the appellant from the process of justice.

5 In the result, we set aside the impugned order and direct the authority to issue the license to the appellant in accordance with law as stated above.

[Dictated & Pronounced in the open Court].

(D.N.PANDA)
JUDICIAL MEMBER

(MATHEW JOHN)
TECHNICAL MEMBER

Anita