CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-DB

COURT –III

Customs Appeal No.C/51632/2016-CU [DB]

[Arising out of Order-in-Original No.01/ PR.COMMR/ CUS/ IND/ 2016 dated 17.05.2016 passed by the Principal Commissioner, Customs, Central Excise and Service Tax, Indore].

For approval and signature:
HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. ASHOK K. ARYA, MEMBER (TECHNICAL)

1	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2	Whether it should be released under Rule 27 of the 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?	

Rishad Shipping & Clearing Agency Ltd. …Appellant

Vs.

C.C.E., C.C. & S.T., Indore … Respondent

Present for the Appellant : Mr.Rohit Choudhary, Advocate
Ms.Preeti Khiwani, Advocate
Present for the Respondent: Ranjan Khanna, D.R.

Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. ASHOK K. ARYA, MEMBER (TECHNICAL)

Date of Hearing : 16/09/2016

Pronounced on : 09.01.2017

FINAL ORDER NO. _50199/2017_

PER: S.K. MOHANTY

The present appeal is filed against the impugned order dated 17.5.2016 passed by the Principal Commissioner of Customs, Indore in which the CHA license issued to the appellant has been suspended.

2. The case of overvaluation of goods for availing undue excessive drawback was investigated by the SIIB, Jawaharlal Nehru Customs House, Nhava Sheva against M/s. Timber exports, New Delhi. It was found by the Investigating Officers that the Customs House Agent (CHA), the present appellant, has not taken appropriate precautions before filing the Shipping Bills and failed to follow the KYC Norms in regard to verification of proper identity of his client. Based on the report dated 22.03.2016 furnished by SIIB, JNCH, Nhava Sheva, the CHA license of the appellant was immediately suspended vide the order dated 13.04.2016 and the suspension was confirmed vide the impugned order dated 17.05.2016.

3. Heard both sides.

4. The ld. Advocate for the appellant argued that the adjudicating authority has failed to observe the time limit prescribed in the Customs Broker Licensing Regulations, 2013 (CBLR) inasmuch as time limit of 90 days prescribed for issuance of notice from the date of offence report has not been observed.

5. On the other hand, the ld. D.R. pleaded that the allegations against the appellant were serious and suspension of the license by the authorities are justified.

6. Regulation 20 in the CBLR mandates that the Commissioner (Customs) shall issue a notice in writing to the Customs Broker within a period of 90 days from the date of receipt of an offence report, stating the grounds on which it is proposed to revoke the license or impose penalty on such customs broker. In the present case, though the offence report was submitted by the Additional Commissioner of Customs, SIIB, Nhava Sheva on 22.03.2016 based on which the license issued to the appellant was suspended, but no proceedings were initiated for issuance of notice within the period of 90 days for revocation of the license neither the suspension was revoked. The ld. Advocate submitted that no further action has been taken by the Department in terms of CBLR so far.

7. In view of the fact the time limit prescribed in the CBLR has not been followed by the ld. Principal Commissioner of Customs scrupulously, the license cannot be suspended indefinitely. The statutory binding nature of time schedule prescribed in the CHALR/CBLR has been clearly upheld by various High Courts and this Tribunal. Reference can be made in the cases of A.M. Ahamed & Co. vs. Commissioner of Customs (Imports), Chennai reported in 2014 (309) E.L.T. 433

(Mad.), (2) Saro International Freight Systems vs. Commissioner of Customs, Chennai reported in 2015 – TIOL-2916 – HC- MAD- CUS., (3) M/s. Altharva Global Logistics vs. Commissioner of Customs, New Delhi reported in 2016-TIOL-157-CESTAT-Del. (4) M/s. Lohia Travels and Cargo vs. Commissioner of Customs (General), New Delhi reported in 2015-TIOL-2467-CESTAT-Del. & (5) M/s. Zen Cargo Movers Pvt. Ltd. vs. Commissioner of Customs, New Delhi reported in 2016-TIOL-524-CESTAT-Del.

8. Therefore, the impugned order is set aside and the appeal is allowed in favour of the appellant on this ground alone.

[Pronounced in the open Court on _09.01.2017_)

(ASHOK K. ARYA)
MEMBER (TECHNICAL)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita