IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. IV

Appeal No. C/53993-53994/2015-CU(DB)

[Arising out of Order-in-Original No. 100/BBG/Policy/2015 dated 24.07.2015, by the Commissioner of Customs, Central Excise & Service Tax (Appeals), New Delhi].

M/s. Blackers & Co. Pvt. Ltd. **....Applicants**

Vs.

C.C.E. New Delhi **....Respondent**

Appearance:

Shri S. Sunil, Advocate for the Appellant
Shri R.K. Manjhi, DR for the Respondent

CORAM:
Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri V. Padmanabhan, Member (Technical)

Date of Hearing: 03.04.2017

FINAL ORDER NO. 53180-53181/2017-CU(DB)

Per V. Padmanabhan:

The appeal is against the order in original no. 100/2015 dated 24.07.2015. Vide the impugned order the CHA licensing authority i.e. the Commissioner of Customs Delhi has revoked the CHA license of the appellant along with the order for forfeiture of the security deposit of Rs.50,000/-. The disciplinary proceedings against the appellant were initiated consequent upon certain irregularities noticed in Bill of Entry filed by the appellant in JNCH, Nhawasheva. On receipt of intimation about the alleged irregularities committed by the appellant, disciplinary proceedings has been initiated by the Commissioner of Customs New Delhi. The show cause notice was issued on 24.07.2013 proposing to revoke the CHA license of the appellant, as per Regulation 20(I) of the CHALR, 2004. The enquiry officer appointed to enquire into the charges, submitted the enquiry report on 27.04.2015. Finally the Ld. Commissioner issued the impugned order on 24.07.2015 revoking the CHA license of the appellant and ordering forfeiture of the security deposit.

2. In the present appeal, the appellant has challenged the impugned order on merits as well as on the time limits.

3. With the above background we have heard Shri S. Sunil, Advocate for the Appellant and Shri R.K. Manjhi, DR for the Respondent.

4. The Ld. Counsel appearing for the CHA submitted that the Ld. Commissioner has failed to observe the time limits specified in the CHALR, 2004 and submits that the impugned order is liable to be set aside on this ground itself. He specifically submitted that the show cause notice was issued to the appellant on 24.07.2013. However, the enquiry report has been submitted only on 23.04.2015, much beyond the period of 90 days prescribed under Regulation 22 of the CHALR. He also relied upon several case laws to support his case that the proceedings under CHA Regulation would stand vitiated for non adherence of time limits.

5. Ld. DR supported the impugned order.

6. The impugned order has been challenged mainly on the ground of non adherence of time limits which are fixed in terms of

the relevant CHALR. Regulation 22 mandates that on conclusion of enquiry, the Deputy Commissioner conducting the enquiry shall submit his report within 90 days from the date of issue of show cause notice. The Show cause notice has been issued on 24.07.2013 and the period of 90 days would expire on 22.10.2013. However, it is seen from records that the enquiry report stands submitted only on 23.04.2015 which is much beyond the period of 90 days.

7. Several High Courts while dealing with CHA Regulations have sanctified the time-limits under the Regulations and have held that any violation in the specified time-limits will lead to setting aside the disciplinary proceedings. Such view has been held by the Hon'ble Madras High Court in the case of ***A.M. Ahmed & Company vs. CC (Imports), Chennai – 2014 (309) EL 433 (Mad.).*** Similar view has been held by the Hon'ble Madras High Court in the case ***Saro International Freight System vs. CC (Chennai) – 2016 (334) ELT 289 (Mad.),*** and the Tribunal has been consistently following the above decisions in respect of the action taken under CHA Regulations.

8. In view of the above discussions, the order of the lower authority forfeiting the security deposit is set-aside and the appeal is allowed.

[Operative part of the order Order Pronounced in the Open Court]

(V. Padmanabhan)
Member (Technical)

(Archana Wadhwa)
Member (Judicial)

Bhanu