

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH - COURT NO. 1

**Customs Appeal No. 50689 of 2017 with
Customs Misc. Application No. 50489 of 2017**

(Arising out of Order-in-Original No. 17/2016/RNS/COMMR/IMP/ICD-TKD dated 23.09.2016 passed by the Commissioner of Customs (Import), New Delhi)

DATE OF HEARING : 16.06.2017

DATE OF DECISION : 16.06.2017

Shri Rajesh Trehan

....

Appellants

(Rep by Ms. Vidhushi Subham, Adv.)

VERSUS

CC, New Delhi

....

Respondent

(Rep. by Sh. R.K. Manjhi, DR)

**CORAM : HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE MR. B. RAVICHANDRAN, MEMBER (TECHNICAL)**

FINAL ORDER NO. 54056/2017

PER B. RAVICHANDRAN :

The miscellaneous application is filed by the Appellants for early hearing of the appeal on the ground that the goods are live consignments lying in the custody of the Department and incurring heavy demurrage charges. Considering the issue involved, we allow the application for early hearing and with the consent of both the parties proceed to decide the appeal on merits.

2. The present appeal is filed by the Appellants against the impugned Order-in-Original No. 17/2016/RNS/COMMR/

IMP/ICD-TKD dated 23.09.2016 passed by the Commissioner of Customs (Import), New Delhi.

3. The learned counsel for the Appellants submitted that the impugned order is legally not sustainable as the duty liability has been fastened on two different persons without identifying the importer. The Bill of Entry was filed by three other persons, whereas the present duty confirmation is against the Appellants. Further, she submitted that none of the relied upon documents have been furnished to the Appellants to defend their case. As the consignments are lying in the custody of the Department incurring demurrage, she prayed for early disposal of the case.

4. We have heard both sides and perused the appeal record.

5. Admittedly, the duty demand has been confirmed against two persons, namely, Shri Rajesh Trehan and Shri Harish Mohindru. Apparently, such course of action is not tenable. The importer has to be identified and the duty liability could not be fastened without identification of importer. Further, in order to fulfil the requirement of principles of natural justice, all the relied upon documents are to be made available to the noticees. Without rendering any opinion on the merits of the case, we set aside the impugned order and remand the case back to the original authority for fresh decision after giving adequate opportunity to the noticees to present their case. Since the consignments are lying with the Department, the authorities may take an early decision.

6. In the result, the appeal is allowed by way of remand.
Miscellaneous Application also stands disposed of accordingly.

(Dictated & pronounced in the open court)

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(JUSTICE (Dr.) SATISH CHANDRA)
PRESIDENT

Golay