CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

BENCH-DB

COURT –III

Customs Appeal No.C/51961/2016-CU [DB]

[Arising out of Order-in-Original No. 16/SM/POLICY/2016 dated 23.03.2016 passed by the Commissioner of Customs (General) New Delhi.]

M/s. Bright Line ...Appellant

Vs.

C.C., New Delhi …Respondent

Appearance:

Mr. G.K. Sarkar & Prashant Srivastava (Advocates), for the Appellant
Mr. Sanjay Jain, DR for the Respondent

CORAM:
Hon'ble Mr. S.K. Mohanty, Member (Judicial)
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Date of Hearing/ Decision.22.05.2017

Final Order No. 55286 /2017

Per S.K. Mohanty:

This appeal is directed against the impugned order dated 23.03.2016 passed by the Commissioner of Customs (General), New Delhi, forfeiting the security amount deposited by the appellant.

2. Heard both sides and perused the records.

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

4. On the other hand, the ld. DR supports the findings recorded in the impugned order.

5. Regulation 20 in the CBLR mandates that the Commissioner of 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 on 01.04.2013, but no proceedings were initiated for issuance of notice within the period of 90 days for revocation of the license or for forfeiture of the security deposit. Further, as against the time frame of 90 days for submission of enquiry report, the same was furnished on 14.01.2016, which was more than 18 months.

6. In view of the fact that the time limit prescribed in the CBLR has not been followed by the ld. Commissioner of Customs scrupulously, security deposit cannot be forfeited. 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.

7. Therefore, the impugned order in so far as forfeiting the security deposit, is set aside and the appeal is allowed in favour of the appellant on this ground alone.

(Operative Portion and pronounced in the open court)

(V. Padmanabhan)
Member(Technical)

(S. K. Mohanty)
Member (Judicial)

Sakshi