CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 07.08.2017

Customs Appeal No. 50218 of 2017

(Arising out of order-in-original No. SRB/COMM/ACE/16/2016 dated 19.08.2016 passed by the Commissioner of Customs, New Delhi).

Amit Kumar Appellant

Vs.

CC, New Delh Respondent

Appearance:

Ms. Jya Saxena, Advocate for the appellant
Sh Govind Dixit, AR for the respondent

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Final Order No. 55750 /2017

Per: **Justice (Dr.) Satish Chandra**:

The present appeal is filed against the order-in-original No. SRB/COMM/ACE/16/2016 dated 19.08.2016 passed by the Commissioner of Customs, New Delhi.

2. Brief facts of the case are that they were exporter who exported polyester ladies skirts in the month of May, 2015. It was found that the export was bogus. The appellant Mr. Amit Kumar was the green card holder of Sh. B.N. Gandhi who was the Prop. of the CHA firm. By the impugned order penalty of Rs. 1 lakh was levied on the appellant - G. Card holder.

3. With this background, we heard Ms. Jya Saxena, ld. Advocate for the appellant and Sh. Govind Dixit, ld. Advocate for the Revenue.

4. From the record, it appears that in the case of proprietaryship firm of Sh. B. N. Gandhi (Customs Appeal No. 53007/2016 vide Final Order No. 52181 – 52183/2017 –CU(DB) dated 07.03.2017), the relief was granted and impugned order was set aside. When in the case of proprietaryship firm, (where the appellant was G. Card holder), the order was already set aside, then we find no reason to levy of the penalty on the appellant. Following our earlier order (supra), we drop the penalty of Rs. 1 lakh and appellant will get the relief accordingly.

5. In the result, impugned order is set aside and appeal is allowed.

(Dictated and pronounced in the open Court).

(V. Padmanabhan)
Member (Technical)

Justice (Dr.) Satish Chandra)
President

Pant