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

Customs Appeal No. 50173 /2016

[Arising out of Order-in-Appeal No. No.2186/2015 dated 13.11.15 passed by the Commissioner of Customs, New Delhi.]

M/s. Sanjeev Kumar, CHA. **Appellant**

Vs.

Commissioner of Customs **Respondent**
New Delhi

Appearance:

Shri Piyush Kumar, Advocate for the Appellants
Shri Govind Dixit, AR for the Respondent

CORAM:

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

Date of Hearing/ Decision: 02.08.2017

FINAL ORDER NO. 55760 /2017

Per: Justice (Dr.) Satish Chandra:

The present appeal is filed against Order-in-Appeal No.2186/2015 dated 13.11.2015. By Bill of Entry dated 10.6.2011, M/s. New Faith Enterprises had imported synthetic diamond powder. In the import documents importer has declared 1gm = 1 carat, but infact 1gm = 5 carats. Both the parties have later recognized the mistake. The original authority has imposed penalty on the importer as well as on the assessee, who is a CHA in the instant case.

2. The Commissioner vide Order-in-Appeal dated 5.8.2014, had set aside the demand on the ground of limitation and penalty was also quashed. The said order was upheld by the Tribunal vide Final Order No. 54894/2016 dated 7.11.2016.

3. Vide common impugned order dated 27.2.14, penalty on the appellant, who is a CHA was levied on the appellant of Rs.6,25,792/- under section 112(a) of the Customs Act, 1962. The said penalty was upheld by another Commissioner in Order in Appeal No. 2186/15 dated 18.11.15. Being aggrieved, the appellant has filed the present appeal.

4. With this background, we heard Shri Piyush Kumar and Shri Govind Dixit, learned Counsels.

5. After hearing both the parties and on perusal of the documents available on record, it appears that in the instant case, duty demand was deleted and penalty was quashed and same was upheld by the Tribunal. Article 14 of the Constitution grants equality before law and equal protection of law. In view of this, we are of the view that

appellant is entitled to alike terms. Hence, we set aside the impugned order and cancel the penalty.

6. In the result, the appeal filed by the appellant is allowed with consequential relief.

(Dictated and pronounced in the open Court)

(V. Padmanabhan)	**(Justice (Dr.) Satish Chandra)**
Member (Technical)	**President**

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