CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

BENCH-DB

COURT –III

Customs Appeal No. C/53418/2015-CU [DB]

[Arising out of Order-in-Original No. 12/2013 dated 22.07.2013 passed by the Commissioner of Customs, Jaipur.]

M/s. Rajendra M Purohit . ...Appellant

Vs.

C.C.E. Jaipur …Respondent

Appearance:

Mr. Piyush Kumar, (Advocate) for the Appellant
Mr. Sanjay Jain and S. Muhthek, 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. 56431 /2017

Per S.K. Mohanty:

This appeal is directed against the impugned order dated 23.07.2013 passed by the Commissioner of Customs Jaipur, ordering cancellation of the CHA license for failure to comply with the provisions of Customs House Agents Licensing Regulations, 2004. Besides security deposit of Rs. 10,000/- forfeited and penalty of Rs. 10,000/- was imposed on the appellant.

2. The appellant has challenged the impugned order on the ground that neither the SCN nor the enquiry report and the

impugned order were issued within time frame prescribed in the CHALR, 2004.

3. Heard both sides and perused the records.

4. We find that the regulations contained in the CHALR have not been scrupulously followed by the original authority inasmuch as the SCN was issued after 240 Days from the date of the offence report and there after the impugned order was passed almost after 370 days from the time of such report. Thus, the provisions of CHALR in this case have not been strictly followed by ht Department. We find that with regard to statutory binding nature of time schedule prescribed in the CHALR/CBLR, various High Courts and the Tribunal in the following cases have consistently held that such time limit has to be strictly adhered to by the authorities for initiation of proceedings against CHA.

1. *A.M. Ahamed & Co. vs. Commissioner of Customs (Imports), Chennai in 2014 (309) E.L.T. 433 (Mad.)*
2. *Saro International Freight Systems vs. Commissioner of Customs, Chennai in 2015 – TIOL-2916 – HC- MAD- CUS.*
3. *M/s. Altharva Global Logistics vs. Commissioner of Customs, New Delhi in 2016-TIOL-157-CESTAT-Del.*
4. *M/s. Lohia Travels and Cargo vs. Commissioner of Customs (General), New Delhi in 2015-TIOL-2467-CESTAT-Del. &*

5. *M/s. Zen Cargo Movers Pvt. Ltd. vs. Commissioner of Customs, New Delhi in 2016-TIOL-524-CESTAT-Del.*

5. In view of the settled position of law, we do not find any merit in the impugned in so far as forfeiture of the security deposit and imposition of penalty on the appellant. Accordingly, the impugned order to such extent is set aside and the appeal is allowed in favour of the appellant. We are not expressing any opinion with regard to cancellation of the CHA license, for the reason that the license has already been canceled vide the order dated 11.07.2013, which is not impugned order in the present appeal.

(Operative Portion pronounced in open court)

(**V. Padmanabhan**)
Member(Technical)

(**S. K. Mohanty**)
Member (Judicial)

Sakshi