

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.**

Date of Hearing/Order: 5.10.2017

Appeal No. C/51458/2017-DB

(Arising out of Order-in-Original No. 50/KB/POLICY/2017 dated 21.8.2017
passed by Commissioner of Customs (General), New Delhi)

M/s Dilip Kumar Thakur, CHA

Appellant

Vs.

CC, New Delhi

Respondent

Appearance

Shri Awneet Singh, Advocate

- for the appellant

Shri R.K. Manjhi, D.R.

- for the respondent

CORAM: **Hon'ble Mr. Ashok Jindal, Member (Judicial)**
Hon'ble Mr. B. Ravichandran, Member (Technical)

Final Order No. 57015/2017

Per B. Ravichandran :

The appellant is a licensed Custom House agent involved in processing various export/ import to cargo through their customs. The present is appeal against the impugned order dated 21.8.2017 of Commissioner (General), Custom House Airport, New Delhi. The impugned order revoked the licence of the appellant and forfeited security deposit of Rs.75,000/-.

2. The Id. Counsel for the appellant contesting the findings, submitted that the appellant did not violate any provisions of CHALR, 2004/CBRL, 2013. He strongly contested the impugned order on the ground of violation of principles of natural justice. When Show Cause Notice was issued on 23.2.2017, an inquiry officer was appointed to conduct inquiry on the charges levelled against the appellant. The Inquiry Officer submitted a report on 19.5.2017. In the said report the inquiry officer concluded that the appellant violated the provisions of Regulation 11(d) of CBLR, 2013 to some extent, and hence only penalty may be imposed under Regulation 22. The said inquiry report was forwarded to the appellant by a letter dated 29.5.2017. The said letter simply stated that any representation against the inquiry report may be submitted within 30 days. The appellant submitted written defence as well as appeared in person before the Commissioner (General). Thereafter, the impugned order was passed revoking the licence and also forfeiting the security deposit.

3. The Id. Counsel pleaded that they were never put to notice regarding non-acceptance of inquiry report and enhancement of penal action including revocation against the appellant. Hence, the order passed without giving notice to them regarding rejection of inquiry report is bad in law. He pleaded for setting aside the impugned order on this ground alone.

4. The ld. AR reiterated the findings of the impugned order. He submitted that full inquiry report was made available to the appellant and also due opportunity of personal hearing was given to them before a decision was taken.

5. Heard both the sides and perused the record.

6. We note that the original authority proceeded to revoke the licence along with forfeiture of security deposit. However, the fact remains that the inquiry which is conducted as per the requirement of the Regulation has recommended only imposition of the penalty. Such inquiry report was made available, without any further comments to the appellant, for their representation. Accordingly, the appellant filed their representation. It is clear that the revocation order, as done in the impugned proceedings, is beyond the recommendation given by the inquiry officer. In such circumstances, it is necessary to put the appellant to notice regarding proposed rejection of the inquiry report and proposed enhancement of penal action, including revocation. The same was not done in the present case which jeopardises the impugned proceedings.

7. We note that in a similar set of facts, the Tribunal in ***P.I. Logistics (India) Pvt. Ltd. Vs. CC (I&G), New Delhi*** - 2016 (344) EL:T 575 (Tri.-Del.) held that notice to the appellant regarding disagreement with findings of the inquiry report is necessary. Failure to inform in advance such disagreement will violate the principles of natural justice jeopardising the impugned order. We note that in the present case there is a clear violation of principles of natural justice. As such, on this ground the impugned order is set aside. The appeal is allowed with consequential relief.

(Dictated & pronounced in open Court)

(Ashok Jindal)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

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