

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH - COURT NO. 1

Customs Appeal No. 50863 of 2017

(Arising out of Order-in-Original No. 17/SM/Policy/2017 dated 05.07.2017 passed by the Commissioner of Customs (General), New Delhi)

DATE OF HEARING : 15.11.2017

DATE OF DECISION : 15.11.2017

M/s Johar Enterprises

....

Appellants

(Rep by Sh. Dalip Singh, Adv.)

VERSUS

CC, Delhi

....

Respondent

(Rep. by Sh R.K. Manjhi, DR)

**CORAM : HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE MR. V. PADMANABHAN, MEMBER (TECHNICAL)**

FINAL ORDER NO. 58000/2017

PER JUSTICE (Dr.) SATISH CHANDRA :

The present appeal is filed by Ms. Bharti Chawla, Managing Partner of M/s Johar Enterprises (assessee-Appellant) against the Order-in-Original No. 17/SM/Policy/2017 dated 05.04.2017 passed by the Commissioner of Customs (General), New Delhi.

2. The brief facts of the case are that, the assessee-Appellants, M/s Johar Enterprises, had filed the shipping bill dated 02.08.2016 on behalf of M/s Global Products, Ward No. 14, Adarsh

Nagar, Udham Singh Nagar, Rudrapur, Uttarakhand. On a specific information, the consignment of goods was examined with the help of X-ray machines and it was found that it contains 19.7 kg of Ephedrene HCL, which is a narcotics and prohibited item.

3. In this context, statement of Ms. Bharti Chawla, Managing Partner of the assessee-Appellants, was recorded on 06.08.2016 and 08.08.2016 wherein she stated that she is an art graduate from Calcutta University and Managing Partner of M/s Johar Enterprises. She also stated that the other partner of M/s Johar Enterprises is Ms. Mriganka Chawla. She further stated that she has not verified the KYC of the exporter. The shipment was attended by Shri Naveen Bakshi who did not appear in any exam of Customs Broker Licence for G or H Card and no such card was issued to him. She stated that they did not verify the existence of the exporter by physically going or sending someone to the address of the exporter. It is the submission of Ms. Bharti Chawla that somebody has come and handed over the consignment.

4. During the course of investigation, the Department recorded the statement of Shri Manzoor Ahmed Sheikh s/o Shri Abdul Ahmed Sheikh, r/o Rafiq Kocha, Fateh Kadal, Srinagar, Kashmir, on 08.09.2016, wherein he stated that on 18.04.1996, CHA licence was issued in the name of Johar Enterprises, New Delhi, which was valid upto 05.03.1997. He also stated that he signed in Form-D of the said licence of M/s Johar Enterprises and the same licence has been renewed from time to time and is still

valid. He further stated that he has no knowledge about the shipping bill in question. He stated that he lives in Srinagar (J&K) and has no knowledge about the Customs clearance work being done at the Airport in the name of M/s Johar Enterprises. He further stated that he has nothing to do with this licence as it has already been sold in the year 2007.

5. After the investigation, the Department revoked the licence which was valid upto 04.03.2017 and also forfeited the security deposit of Rs. 75,000/-. Being aggrieved, the assessee-Appellant has filed the present appeal.

6. With this background, we have heard Shri Dalip Singh, learned counsel for the assessee-Appellants and Shri R.K. Manjhi, learned DR for the Department.

7. After hearing both sides and on perusal of the material available on record, it appears that in the instant case M/s Johar Enterprises was involved in exporting narcotics which is prohibited in law. Being anti-national activity, merely the statement of Ms. Bharti Chawla that somebody has handed over the consignment is neither sufficient nor acceptable. We are surprised as to why penal action has not been taken against Ms. Bharti Chawla. In this context, no reference has been made in the impugned order. Unfortunately, the Tribunal has no power to enhance the punishment. In these circumstances, for the anti-national activity

and for exporting the drugs, we sustain the impugned order along with the reasons mentioned therein.

8. In the result, the appeal filed by the assessee-Appellants is dismissed.

(Dictated & pronounced in the open court)

(V. PADMANABHAN)
MEMBER (TECHNICAL)

(JUSTICE (Dr.) SATISH CHANDRA)
PRESIDENT

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